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*The Ombudsman or Citizen's
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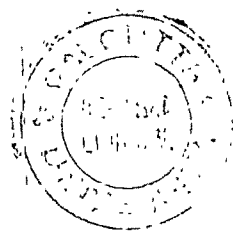
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THE ANNALS

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THE OMBUDSMAN OR CITIZEN'S DEFENDER: A MODERN INSTITUTION

Special Editor of this Volume

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Northridge, California*

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FOREWORD¹

Interest in the Ombudsman, which is now world-wide, was engendered by the writings during the early 1950's of Professor Stephan Hurwitz of Denmark. Dr. Hurwitz led the fight for the incorporation of a provision for an Ombudsman in the Danish constitution of 1953 and for the adoption of a law establishing that office. He was appointed to the newly created office, and he administered it with great success, as Professor Abraham makes abundantly clear in his article in this issue. Dr. Hurwitz began writing articles on the Ombudsman in Danish journals, and later in foreign periodicals, and in 1959, he delivered a paper on the subject at a United Nations Seminar held in Kandy, Ceylon. This paper was subsequently (1960) published in *Political Science*, a New Zealand professional periodical.

He had already captured the attention of New Zealanders and other British Commonwealth scholars and statesmen. As Mr. Cheng, of Singapore, who has studied under Professor Rowat of Carleton University, Ottawa, Canada, shows in his article published below, the response was phenomenal. Scores of books, hundreds of articles, and thousands of newspaper reports and columns testify to the popularity of the idea of an Ombudsman. As various contributors to this issue of *THE ANNALS* reveal, it was not long before many Ombudsman proposals were made to national parliaments, provincial legislatures, and even municipal councils. The extent to which these proposals have been adopted is shown by a number of contributors to this volume. Credit for the renewal of interest in the Ombudsman goes first, of course, to Professor Hurwitz, then to Professors Geoffrey Sawyer and Stanley Anderson (1964) and certainly to Professor Donald C. Rowat for *The Ombudsman: Citizen's Defender* (1965), as well as to Professors Abraham, Davis, and Gellhorn (two books—1966).

Professor Hurwitz, in his various writings and speeches, gives due credit to the Swedes for having initiated the office of Justitieombudsman in their 1809 constitution, and for the establishment of a Militieombudsman (Military Procurator) in 1915. In this issue, Judge Bertil Wennergren tells the story of the development of the Swedish institutions for defending the citizen against official wrongs—which may be said to have begun in 1713, with the creation of the office of Högsta Ombudsman (Supreme Commissioner). And Judge Alfred Bexelius (at present Justitieombudsman in Sweden) recapitulates the 160-year-old history of the modern Swedish Ombudsman institutions. As one of the leading authorities on the office, Judge Bexelius has been invited to give testimony before legislative bodies in the United Nations, the United Kingdom, and elsewhere.

The parallel development of the Ombudsman institution in Finland (1809 to the present) is recounted by Mikael Hidén; the experience of Denmark, by Henry J. Abraham; and that of Norway, by Sverre Thund. Geoffrey Sawyer discusses the experiences of New Zealand, which has established an Ombudsman office, and of Australia, which has not yet yielded to the demand for its creation.

Walter Gellhorn, in two books: *Ombudsmen and Others* (1966) and *When Americans Complain* (1966), was impressed by the development of a related

¹ All of the contributors to this volume, as well as several persons who were invited to contribute but were unable to do so because of other commitments (for example, William A. Robson, Donald Rowat, and Stanley Anderson), have been helpful to the editor in preparing this issue. I am particularly indebted to my colleagues Professors Francis D. Wormuth and James S. Smith for help in editing.

institution, the "Procurator," in the Soviet Union and other Slavic countries, as well as in Central Europe. As Hidén notes, the change of title in Finland, at the time that this country became a Grand Duchy under Russian control, may account for the fact that Swedes (and other Scandinavians) had preferred, in the past, to translate "Ombudsman" as "procurator." This term sometimes appears in the article which Helmut Bader and Henry Brompton have written on Central European (both Germanic and Slavic) experience with a citizen's defender. In the earlier work, Geoffrey Sawyer (*Ombudsmen*, 1964) suggested that the institution of Ombudsman may have originated with the Roman offices of Censor and Tribune, possibly also the provincial "Procurator."² This suggestion led the editor to ask John C. Adams, an authority on Mediterranean political life, to investigate this area, at one time or another under Roman rule, and to determine whether there were any traces of the institution of citizen's defender there. Practically all that he found was a type of Ombudsman in Israel, probably of European origin. Mr. Cheng reports that the Ombudsman idea is catching on in the Far East and other developing countries.

Geoffrey Marshall, of Queen's College, Oxford, explains why the efforts of Hurwitz and Bexelius, as well as of British scholars, to establish an Ombudsman institution fell somewhat short of the goal. But a "Parliamentary Commissioner" office was created in the United Kingdom in 1967, with jurisdiction over cases involving maladministration in national government. The tremendous enthusiasm for an Ombudsman for Canada, generated largely by the writings and testimony of Rowat and Anderson, has had some effect—accounted for in this issue by Mr. Cheng.

Ake Sandler, Jesse M. Unruh, and Frank P. Zeidler, in their articles on proposals for an Ombudsman in United States national, state, and local governments, all report the nature of the debates, the arguments in favor of a satisfactory institution for remedying citizen grievances, and those in opposition. In most cases, those who are against or have reservations about a "citizen's defender" believe that the legislator (or representative) can adequately fill the role of Ombudsman. By 1968, the federal government had declined to act; one state, Hawaii, has created an Ombudsman office—and several counties and towns have done likewise. The consensus of opinion is that, eventually, some kind of Ombudsman system will be accepted. Dalmas Nelson and Eugene Price, in their final article, speculate upon the character of the reform. One final comment is needed. The use of the Swedish term "Ombudsman" in most countries in the world can be explained only in the same terms that one would use in explaining the universal use of such French terms as *laissez faire* and *coup d'état*.

ROY V. PEEL

Roy V. Peel, Ph.D., Northridge, California, is Professor of Political Science, San Fernando Valley State College. He taught at New York University from 1924 to 1939; was Professor of Government and Director of the Institute of Politics, Indiana University, 1939–1953; and Director, Institute of Government, and Chairman, Department of Political Science, University of Utah, 1953–1961. From 1950 to 1952, Dr. Peel was Director, United States Census Bureau, and he has done field research on the Scandinavian countries for the Institute of Public Administration (1934–1936). He is the author of numerous books and articles in the fields of politics and public administration.

² Cf. F. C. Bourne, *A History of the Romans* (Boston: O. C. Heath, 1966).

The Rise and Growth of Swedish Institutions for Defending the Citizen against Official Wrongs

By BERTIL WENNERGREN

ABSTRACT: In Sweden, the rule of law was recognized more than a thousand years ago. Swedish law has its roots in Germanic law. The country has had the privilege of developing its legal institutions in a relatively undisturbed, although, of course, not uninfluenced, way. The development has therefore been extraordinarily continuous. With regard to institutions for defending the citizen against official wrongs, the king comes into focus in his role of guardian of the law. But institutions to which this function was delegated—royal courts, royal officials, and the like—also demand attention. The potentiality of local courts to protect citizens must not be forgotten, nor the control of bureaucracy that parliament, the Riksdag, developed. Here the system of document publicity, as well as the office of the Ombudsman enter the picture. It should be kept in mind that control of bureaucracy is built upon the fact that Swedish officials have, for a long time, performed their duties under a severe penal responsibility. In order to provide a background to later articles in this volume of *THE ANNALS*, special attention is paid to institutions related to the institution of the Ombudsman.

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A STUDENT of Swedish history cannot avoid noticing the exceptional continuity that characterizes the growth of the social and legal institutions of the country. Even if the starting point is chosen as far back as the fourteenth century, there have been no radical interruptions in the homogeneous slow development of the society and its institutions, at least no interruptions of lasting importance. The result is that in almost all institutions, remnants exist from older times. Odd traits can be traced back through the centuries and are hard to understand without a knowledge of the historical background. The institutions for defending the citizen against official wrongs do not constitute exceptions in this respect, as the following will show.

ECOLOGY

To understand the state of matters, it must be kept in mind that Sweden is a large country, about 870 miles in length, and that even a century ago communications by land were very difficult and time-consuming. The climate is rather severe during the winter and contributed to the isolation of the different parts of the country. So did the large forests. There were only about one million inhabitants in medieval times and two million in the eighteenth century; there are eight million now. But the people belonged to the same race and spoke the same language. Agriculture has, until recent times, been the chief source of subsistence. Sweden has been a land of farmers—small as well as great—but all of them free citizens.

SELF-GOVERNMENT

The tribes that came and populated Sweden some thousands of years ago settled down, by and by, and founded village communities. These were more or less linked together by relationships and common interests such as communi-

cation, trade, and defense. They came to be organized, mostly according to military needs, into *härads* (hundreds), which together formed provinces with large forests or lakes as natural borders. The Ting was the governing and judicial assembly that met at least twice a year under the chairmanship of a Lagman (lawman). He opened the session by reading the law of the province. Thus, the law early entered the conscience of the people. Each province had its own body of laws, not only criminal laws, but also laws concerning village planning, housing, roads, bridges, agriculture, and division of common burdens. There were also local Ting assemblies for the hundreds. Self-government prevailed in those times, both judicially and administratively, and this remains a distinguishing feature of Swedish administration.

The military leader of a province was often called the king. He had a representative in each hundred who lived on land reserved there for the king. He was the king's "Länsman" (man on the land). When a Länsman acted at a Ting on behalf of the king—with regard, for instance, to the king's fines in connection with breach of royal statutes—he was said to act as the king's Ombudsman. Another Ombudsman of the king was the Fogde (the Latin word *advocatus*, Swedified), who acted as tax collector. The administrative duties of the Tings of the hundreds are nowadays assumed by the organs of the communes, but their jurisdiction is still exercised by the rural district courts.

REALM AND PEOPLE

A natural co-operation among the provinces linked them more and more together until, in the middle of the eleventh century, they finally joined into one state, with one king as their leader and with a council at his side composed of leading clerical and civil

TABLE 1—VARIATIONS IN CONDITIONS UNDER WHICH OMBUDSMEN MAY DEAL WITH COMPLAINTS

CONDITIONS	SWEDEN	FINLAND	DENMARK	NORWAY	NEW ZEALAND
Time limit on complaint-initiation	No ^a	No	1 Year	1 Year	1 Year
Exhaustion of administrative remedies first	No ^b	Yes	Yes	Yes	Yes
Complainants must have personal interest in case	No	No	Yes	Yes	Yes
Fee to be paid for complaints	No	No	No	No	£1 ^c

^a The Ombudsman is willing to docket complaints up to ten years. It is doubtful whether ten years is the limit. See Walter Gellhorn, *Ombudsmen and Others: Citizens' Protectors in Nine Countries* (Cambridge, Mass.: Harvard University Press, 1966), p. 210.

^b According to Professor Gellhorn, the present Ombudsman has, on several occasions, suggested that other remedies should be exhausted first before he entertains the complaints (*Ibid.*, p. 207).

^c The Ombudsman himself said that he does not insist upon the fee. He can waive this requirement

wegians were familiar with the new Danish scheme.

The adoption of the Ombudsman system in New Zealand and Norway in 1962 gave a great impetus to the spread of the Ombudsman concept. Certainly, the successful adoption of the institution in New Zealand has aroused great interest in both developed and developing countries. Prior to the Danish adoption, fears of interference with ministerial responsibility and administrative secrecy were frequently raised in many countries as grounds against the introduction of the Ombudsman system. The success of the Danish Ombudsman thus cleared the way for New Zealand's adoption of the institution in 1962, and New Zealand created a precedent for other countries.

Flexibility

The fact is that the Ombudsman system is highly flexible, and is therefore adaptable to countries with different political and administrative environments. This is demonstrated by the successful operation of Ombudsmen in the four Scandinavian countries, which

man: Citizen's Defender (London: George Allen and Unwin, 1965), p. 97.

have significant governmental and legal differences, and in New Zealand. Yet, there are differences among the five systems with respect to jurisdiction. Both the Swedish and the Finnish Ombudsmen have jurisdiction over the judiciary; in addition, the latter not only has jurisdiction over Cabinet ministers, but also has the authority to prosecute them. The omission of Cabinet ministers from the jurisdiction of the Swedish Ombudsman is understandable, as the ministers there are not responsible for administration.

In contrast, the Danish, Norwegian, and New Zealand systems do not have jurisdiction over the judiciary, nor are Ombudsmen in these countries empowered to prosecute ministers. Of course, the inability to prosecute Cabinet ministers does not constitute complete exclusion of Cabinet ministers from the Ombudsmen's jurisdiction. In each of these countries, the Ombudsman can still intervene as long as the Cabinet ministers are acting within their capacity as heads of government departments and the matters do not concern policy.

Other variations occur in the conditions under which complaints from

THE Ombudsman cannot be regarded as a modern institution, as Sweden inaugurated it as early as 1809. It gained very little popularity outside Sweden, however, until almost a century and a half later, when Denmark adopted the system. Finland, whose administrative practices were historically those of Sweden, adopted the institution 110 years after Sweden. One reason for Finland's not having an Ombudsman earlier might have been that, until 1919, Finland was under Russian control. An obstacle to the spread of the Ombudsman concept, prior to its adoption by Denmark, was the language barrier.

FACTORS CONTRIBUTING TO THE SPREAD OF THE OMBUDSMAN CONCEPT

Denmark and New Zealand

Due credit for contributing to recent growth of interest in the Ombudsman concept should be given to Professor Hurwitz, the incumbent Danish Ombudsman, who has publicized the office widely. A paper of his on the Ombudsman institution was presented at a United Nations Seminar in Ceylon in 1959. He also published a book entitled *The Ombudsman* in 1961. His article on "Control of Administration in Denmark" was published in the *Journal of the International Commission of Jurists* in 1958, and his "The Folketingets Ombudsman" appeared in *Parliamentary Affairs* in 1959. He has had considerable influence in arousing British interest in the Ombudsman. In the fall of 1958, he gave a series of lectures about his office in London, Manchester, Oxford, Nottingham, and Bristol, and his interview with Professors Wade and Griffith, presented by the British Broadcasting Company in May 1960, gave a substantial push to the Ombudsman idea in Great Britain.

Professor Hurwitz' effort has also

made a distinct contribution to the development of the Ombudsman system elsewhere in the English-speaking world. New Zealand's Ombudsman may be, as Sir Guy Powles has pointed out, mainly "a native product," which arose from earlier local proposals to safeguard individual rights against bureaucratic encroachment. But the actual form of the institution was, no doubt, influenced by knowledge of the Danish system gained from British periodicals and from New Zealand officials' attendance at the Ceylon Seminar of 1959. Hewitt points out that "the paper at the Seminar on the work of the Danish Ombudsman has created a good deal of interest, and the Attorney-General and the Deputy Secretary returned to New Zealand fully informed as to the latest developments overseas regarding the office of Ombudsman."¹ In fact, Dr. Robson, who was one of New Zealand's representatives at the Ceylon Seminar, was so impressed by the Danish institution that he argued that it might well be preferable to emulate the Danish system rather than to widen the system of administrative tribunals.²

How great an influence the Danish Ombudsman has had on the adoption of the Ombudsman system in Norway is difficult to say. Norway had established its own Ombudsman for Military Affairs in 1952. Perhaps the success of the Military Ombudsman was a main factor in the adoption of an Ombudsman for Civil Affairs in 1962. Yet, according to Audvar Os, Professor Hurwitz did write an article for a Norwegian law review,³ and many Nor-

¹ D. J. Hewitt, "The Origin of the Ombudsman in New Zealand and His Work," *The New Zealand Law Journal*, August 2, 1966, pp. 345-347.

² See his Address to the Institute of Public Administration, *Journal on Public Administration*, Vol. 22 (September 1959), p. 79.

³ See Audvar Os, "The Ombudsman for Civil Affairs," in D. C. Rowat (ed.), *The Ombuds-*

The Emergence and Spread of the Ombudsman Institution

By HING YONG CHENG *

ABSTRACT: Though the Ombudsman institution was originated a century and a half ago in Sweden, it began to be popularized only from the middle of the 1950's when Denmark had successfully adopted the system. By 1968, widespread acceptance of the system is seen in both the developed and developing countries alike. Great Britain has now become the first large country to adopt the institution; Guyana has become the first developing country to do so. It is anticipated that by 1970 several more countries will join the "International Ombudsman Club." The success of the institution is due mainly to the flexibility of the system and its adaptability to countries with different political and administrative backgrounds. This has been sufficiently demonstrated by the operation of the system in New Zealand and the Scandinavian countries. The Ombudsman system may not work as well in many developing countries, but its adoption will be worth-while, nevertheless, because it can perform two significant functions at which all developing countries are aiming—to promote the general efficiency of administration and to bridge the gap between the government and the people.

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A prerequisite for a successful fulfillment of the task seems to be the keeping of such an institution above political issues. Without stability in the political situation, this may, perhaps, be difficult to accomplish. An Ombudsman probably makes the most of his task in an enlightened democratic society with a

free press and an open and engaged public opinion.

It is certainly an expression of real democracy when a society establishes a special institution with the task of ensuring that the other agencies serving the society respect the rights of the citizens.

precedents of firmly established court practice. The Ombudsman has to be very careful not to raise doubts as to the content of a law. He should propose amendments when he comes to conclusions other than those represented by court precedents and considers a change of practice desirable.

An important reason for the fact that most authorities willingly accept the Ombudsman's pronouncements is that the authorities themselves value uniformity. Sometimes the authorities, in certain cases, ask the Ombudsman for guidelines.

In cases where persons have suffered injury, the Ombudsman can support their claims for compensation. In cases of unjust punishment, the Ombudsman has tried to help the convicted person either to get a new trial or to appeal to the government for clemency.

IS THERE A NEED FOR AN OMBUDSMAN OFFICE?

Institutions that in most aspects are parallel to the Swedish Ombudsman now exist in the other Scandinavian countries, in the United Kingdom, in New Zealand, in Guyana, in one province of Canada, and in Hawaii. The institutions seem to enjoy considerable good will. A short discussion of the merits of the idea may be of interest, though, of course, institutions, as such, cannot be exported. The underlying ideas may be adopted and transformed, considering the situation and traditions of a certain nation.

The institution of an Ombudsman will never be a substitute for such elementary safeguards as judicial control, internal control, and an administrative appellate system. It will always be a factor of additional guarantee. If the ordinary remedies do not function satisfactorily, the Ombudsman will be paralyzed by an overwhelming work-load.

In Sweden, the system of administrative remedies is carried far—too far, many believe. But, in spite of that, the institution of an Ombudsman is not regarded as a luxury. On the contrary, a reinforcement of the institution is actually being planned.

Independent control of administration may be found in the courts, but courts give judgments on only a fraction of administrative actions, and they do not act on their own initiative—nor do they usually deal with nonperformance of duties. Administrative review is another good help for the protection of the citizen. But there are always incongruities in administration which are hard to deal with in ordinary ways, and it must be kept in mind that the efficiency of internal remedies can easily be reduced by collegial considerations. And even the best of internal controls leaves gaps that cannot be closed by someone who does not stand free of the hierarchy in question.

Considering all the situations where ordinary remedies are inadequate and the advantage of having an independent organ that may serve not only for complaint, but also for promotion of good government, one realizes that there are good reasons for the growing esteem for the institution of the Ombudsman. It may be added that the mere existence of such an institution serves as a security valve in society, with a general soothing effect as a result. The existence of such a security valve facilitates co-operation between authorities and citizens. The fact that there is an independent institution which devotes special attention to ensuring the rule of law strengthens citizens' confidence in the will and readiness of society to protect them against encroachments from society's own organs. Tensions between society and the citizenry may thus be smoothed away in a truly democratic way.

decision is intended to be based. This inquiry covered a large number of agencies in all parts of Sweden. It led to a recommendation to the government for legislation. But, apart from that, the numerous examples of faulty practice which were set forth in the recommendation to the government, and the arguments which were put forward there, caused a large number of agencies to alter their practice voluntarily.

Another inquiry was related to a question of great practical importance, namely, how the authorities should deal with matters concerning the withdrawal of driving licenses. Complaints received, as well as observations made in the course of inspections, had revealed that the procedure was deficient from the viewpoint of legal security and also that practice was far from uniform over the country as a whole. The facts brought out through this inquiry were sufficient to induce local authorities to change their practice.

The Ombudsman's pronouncements are brought to the knowledge of the public through the press and through annual reports. It is the duty of each of the Ombudsmen to present to parliament an annual report on his work. The report contains a summary of all important cases upon which he has made a ruling during the previous year. The report—about 500 pages—is distributed to all courts and many other authorities. In this manner, knowledge of the Ombudsman's rulings is disseminated. The Ombudsman can thus make a substantial contribution to better practice and improve the legal security of the citizens. Sometimes, when the Ombudsman has found an unsuitable practice, he may ask the Central Board in question to issue a circular to subordinate officials.

It should be stressed that the Ombudsman's opinion is not binding. If an official thinks that the Ombudsman has interpreted the law incorrectly, he is

perfectly entitled to act according to his own interpretation. However, the Ombudsman's opinion is, as a rule, accepted, and has often furthered unity in questions where the law was not quite clear. The results that the Ombudsman may achieve are wholly dependent on the weight of the arguments founded on facts that can be referred to in support of his actions and pronouncements, and on his position as the trustee of parliament.

When the Ombudsman finds that an official has committed a fault that is to be regarded as a punishable breach of duty and that official is of different opinion, a prosecution is instituted, and a court of justice will give the answer. After possible appeals, both the Ombudsman and the official have to accept the final decision. But it may also occur that the Ombudsman finds an official's action inadequate, improper, or unwise, but not unlawful. In such cases, there is no ground for prosecution. According to the Ombudsman's view, no breach of duty has been committed.

The unsatisfying result of a case may be a consequence of unclear or inappropriate statutes. As I have already mentioned, the Ombudsman can then propose a law reform. Often, however, there is not sufficient ground for such a step, though the law has been interpreted differently by the Ombudsman and the official concerned. Then reasoned argument is the only means available. The strength of the arguments will decide whether the opinion of the Ombudsman will prevail. It cannot be denied that not only the arguments, as such, of the Ombudsman, but also the fact that they emanate from an office which enjoys general respect contributes to the effect. However, to secure uniformity in administrative practice and case law, it is of utmost importance that the pronouncements of the Ombudsman are not dissonant with

writing is usually demanded from the particular authority or official.

If the written material does not constitute sufficient foundation for a judgment on the official's ruling, the Ombudsman may ask the police for a closer investigation and interrogation of the persons involved. The Ombudsman himself or one of his assistants may also hold a hearing. Furthermore, he can ask any authority to investigate the matter or to give an opinion in the question involved. Interest groups and other organizations are also often heard. Private groups have no obligation to answer the Ombudsman's questions, but refusals are most rare.

The Ombudsman is not bound to act only on complaints. Many investigations are initiated by the Ombudsman himself, often on the basis of reports on the activities of the courts or administrative officials that appear in the newspapers. Other cases are taken up as the result of observations made during inspections. Every year, the Ombudsman, followed by some members of his staff, visits courts, prosecutors, police authorities, and administrative agencies. By talking with the officials and by examining the documents, they check to ascertain if the cases have been legally tried and decided upon, and if prompt action has been taken. When inspecting administrative agencies, the Ombudsman and his assistants first investigate, by random selection of cases concerning various fields, how the agency observes the fundamental principles in the administrative process.

HOW THE OMBUDSMAN PROMOTES LEGAL SECURITY AND INFLUENCES PRACTICE

The mere existence of an office, independent of the bureaucracy, to which anybody can carry his complaints, will act to sharpen the attention of the au-

thorities in preparing their cases, and to counteract tendencies toward abuse of power and arbitrary decisions.

When the Ombudsman criticizes an official at fault, the purpose of the reminder is not limited to that of admonishing the official concerned. The criticism of the incorrect procedure is delivered in order to further better protection of rights in the long run. The criticism is therefore worded in such a way as to serve as a guideline, not only to the person at fault, but also to other officials.

It is natural that, through complaints, and also in the course of his inspections, the Ombudsman often discovers shortcomings in legislation. The constitution enjoins the Ombudsman to comment on deficiencies in laws and regulations and to make proposals for amendments.

In many cases, the Ombudsman only gives a stated opinion meant to influence practice in the future.

In order to contribute to uniform practice, the Ombudsman's activity primarily concerns questions that are not expected to be tried by the Supreme Court and the Supreme Administrative Court. When a new law is enacted, the practice of local courts and boards will tend to show considerable variance, and special vigilance by the Ombudsman may be helpful in establishing a more uniform practice.

During the last ten years, the JO's office has initiated and carried out a large number of inquiries into deficiencies in administrative procedure. Several of these inquiries have led to a change in the practice of the agencies concerned. In this way, the rule of law has been promoted, and the risk of errors has been diminished.

One of these inquiries concerned the question of the obligation of an administrative agency, before deciding a matter, to give parties an opportunity to comment on the material on which the

The new ideas concerning the tasks of the state and activities for fulfilling them have led to a torrent of administrative statutes and an enlargement of the administration. In general, the material provisions in administrative statutes are, and often must be, more vaguely and inexactly drafted than the laws that are applied by the common courts. Therefore, the true meaning of a regulation can be a matter of doubt even when the authorities try to follow the law. The application of such a provision involves a risk that the rights of the individual might be disregarded. The laws give, and must give, the administrative agencies wide margin for discretionary power in many regards. This makes it difficult to apply the laws in accordance with their intentions and to secure uniformity in the application. Very often, the interests of the society and the interests of the individual are balanced differently by different regional agencies, even when dealing with the same concrete situation. Therefore, individuals often believe that they have been treated arbitrarily.

The rapid expansion of administration has sometimes made it difficult to fill all posts with qualified officials. In specialized branches of administration, officials easily lose the general view, and have a tendency to press their own claims too vigorously without taking other interests into consideration.

Thus, the expansion of the administrative machinery in order to promote the social security of the citizens involves many problems regarding the protection of the rights of citizens.

The development now described has radically changed the activities of the Ombudsman. He has far more agencies to supervise, and he receives far more complaints from dissatisfied people. The number of complaints per year—about 100 fifty years ago—was 550 in 1956 and 1,550 in 1966.

The ground for intervention by the Ombudsman is the same today as 150 years ago: nonobservance of existing laws and statutes. Today, the problems he meets in his work have, however, in many regards, another character than was the case earlier. Supplementing the work of protecting classical civil rights, the Ombudsman will nowadays often have to face problems of new legislation and administration. The new problems concern mainly the legal security of the citizens in the administrative process. Are the decisions of the administrative agencies founded on sufficient evidence? Has the person involved been given an opportunity to answer evidence working against him? Has the matter been delayed? Have public and private interests been objectively balanced? Have the decisions been influenced by improper reasons? Have the reasons for the decisions been sufficiently explained?

HOW CONTROL BY THE OMBUDSMAN IS CARRIED OUT

Most of the Ombudsman's decisions are given in cases where private citizens have complained. Everyone—even citizens of other countries—can complain to the Ombudsman, even concerning matters that in no way concern the complainant personally. Nobody has to employ a lawyer to take his complaint to the Ombudsman.

The first step taken in handling a complaint which cannot at first sight be judged to be unjustified is to request the documents in the case from the authority concerned. It is often possible to judge from these documents alone whether there is sufficient cause for the complaint. If the contents of the complaint give sufficient ground for the assumption of a fault or if required documents do not show that the complaint is unfounded, an explanation in

and of asserting the civil rights of the citizens were thus meant to be achieved by means of the general preventive effect of the prosecutions.

However, quite soon, entirely without basis in these instructions, a practice developed in minor cases of replacing prosecution with a reminder to the official concerned that his handling of the case had been faulty and improper. Giving reminders has, for a long time, been the procedure used by the JO or the MO in the great majority of the cases in which faults or neglects have been found. Prosecutions occur mainly in cases where the fault is serious or where injury has been caused to private citizens.

Often it happens that the Ombudsman, after an investigation, finds that there has been no breach of duty and that, consequently, no ground exists for a prosecution or a reminder. The investigation, however, may have revealed a bad, or at least unsatisfactory, practice or some other deficiency. In such cases, the Ombudsman does not hesitate, after having cleared the official, to express his views on the practice and to recommend either a change or some other step that may promote better administration.

The first JO worked in a rural society, governed by the liberal idea that, if possible, the state should not interfere with the affairs of private citizens. The tasks of the state concerned mainly the administration of justice and the promotion of general order and security. The organization and practices of administration were not well developed. At that time, the activities of the JO were primarily directed against unlawful constraints on personal liberties of various kinds. The annual reports describe a great number of actions against, for instance, undue constraints on liberty, or arrests insufficiently warranted, or false imprisonment. During the same period,

the JO often had to take action against officials who had violated the freedom of public assembly.

THE TASKS OF THE OMBUDSMAN IN THE MODERN WELFARE STATE

During the last decades, the development of society, in Sweden as in most other countries, has radically altered the situation of the citizens. A fundamentally new view of the tasks of the state has grown up under the influence of this development and of modern political ideas. A leading idea is that the state should not only watch over its citizens' rights, but also actively promote their prosperity and social security.

The risks of the violation of a citizen's classical rights and freedoms are, perhaps, not so apparent in a modern democratic and enlightened society. Instead, other interests of the citizen come more easily into focus. The social security system should be so balanced that economic and personal needs are provided for, when required, without unnecessary intrusion into anyone's private life. This creates a need for protection against both officials' neglect of their duties defined by law and over-energetic performance of these duties. The privacy and dignity of man must be respected, and the care-taking official must not act as a guardian. Citizens have become entitled to one type of assistance after another, and these rights need protection, too.

Urbanization and general technological development have also led to new governmental demands on citizens. The individual has become more and more dependent on the authorities. Apart from rising taxes, the state may demand private sacrifices on behalf of such public interests as, for instance, town and country planning, communications, and public health. The need for protection is apparent here, too.

his term, the committee will petition parliament to that effect. A discharge of this kind has, in fact, never occurred, but the possibility remains.

With very few exceptions, the JO and the MO have been chosen from the ranks of justices of the courts. The Ombudsman and his deputy each receive the same salary as a member of the Supreme Court.

The offices of the JO and the MO have never been used in the interest of political parties. With few exceptions, mainly during the first half of the nineteenth century, political interests have not influenced the elections of Ombudsmen. On the contrary, the political parties have always tried, and have also usually succeeded, in uniting in the selection of an Ombudsman. A remarkable feature of the office is the independent position of the Ombudsman not only in relation to the government, but also in relation to parliament itself. As expressed by the first holder of the office, the Ombudsman is made dependent only on the law. This means that he will not be given and will never accept any instruction as to what cases to investigate. Nor is there anybody in parliament who will try to influence the Ombudsman to act in a certain direction when handling a particular case. There is no evidence whatsoever to support an assumption that undue influences have ever been successfully exerted on the office. In this way, parliament has done everything possible to ensure that the Ombudsman's decisions are made without regard to political pressure, and that the general public may have full confidence that this is the case.

The task of the Ombudsman is today the same as it was 150 years ago when the office was created, namely, to ensure that judges and other officials act according to existing laws.

For this purpose, the Ombudsman has

Thus, the Ombudsman has the authority to investigate any fault or neglect and to express his opinion about what has happened. He has, however, no power to amend decisions made by courts or administrative agencies. On the other hand, he is free to give non-binding recommendations to competent legislative and executive organs. Neither the Cabinet nor parliament can stop an investigation that the Ombudsman finds necessary. Thus, an important feature of the office is complete independence of the office, not only in relation to the Cabinet, but also in relation to parliament.

THE ACTIVITIES OF THE JO IN EARLIER TIMES

Initially, the role of the JO was primarily thought of as that of a prosecutor in proceedings taken against civil servants. The JO was to make sure that the officials in the performance of their duties acted in accordance with law. In case the JO found an official guilty of abuse, error, or neglect, the JO should institute proceedings against the official and should help the victim in obtaining compensation and correction to the extent possible. The purpose of preventing abuse and errors

those times was the most important incentive to the creation of the office.

OFFICIALS COVERED BY THE SUPERVISION

The JO's control covers nearly all judges and nearly all other officials save the members of the Cabinet—who are controlled by parliament itself—and the Chancellor of Justice.

In the beginning, the supervision by the JO also covered the military administration. The growth of the state's administrative functions made it, however, impossible for him to give detailed attention to the military authorities. When Sweden, in 1914, reformed her military defenses, public opinion demanded a more efficient and detailed control in this vast field, especially since compulsory military service made some citizens, for long periods, subject to conditions differing from those of other citizens. At that time, antimilitaristic propaganda had gained ground and caused widespread distrust of the military administration. To prevent such distrust, it was found necessary to make the supervision of the military administration more efficient. Therefore, it was decided to transfer the supervision of the military administration from the JO to a special Ombudsman—the Militie-ombudsman (the MO), whose office was to be based upon the same principles as that of the JO. The new office commenced operations in May 1915. Since then, Sweden has had two parliamentary Ombudsmen. The MO uses the same methods of work as the JO. When I, in the remainder of this article, use the word "Ombudsman" I am referring to both the JO and the MO.

From the beginning, all officials of municipalities were exempted from supervision by the JO. In 1957, this was changed. Now, municipal boards

and officials—however, not members of local assemblies—are subject to the JO's attention. According to the directives, the control of municipal boards and officials is to be carried out with due attention to the special conditions which appertain to local self-government.

THE STATUS AND THE POWERS OF THE OMBUDSMAN

The Ombudsman (the JO or the MO) is elected by forty-eight electors chosen solely for the purpose among the members of parliament—twenty-four from each of the two houses of parliament. The election is for a term of four years. There is nothing to prevent the Ombudsman's being re-elected for one or more additional four-year terms. A Deputy Ombudsman, who acts when the Ombudsman is ill or on leave, is elected in the same manner. When the amount of work so requires—which, as far as the office of the JO is concerned, has meant all the time during the last few years—the Ombudsman may assign the Deputy Ombudsman to decide on his own responsibility the cases which the Ombudsman does not reserve to himself.

The Ombudsman is assisted by a staff, the members of which are appointed by him personally. The means for paying the staff and operating the office are granted by parliament.

The Ombudsman is, of course, responsible to parliament. Each year his administration is examined by a parliamentary committee. It may happen that the committee or one of its members criticizes the Ombudsman because of some decision he has made or because he has neglected to act in a particular situation. Should the committee find that the Ombudsman does not deserve the confidence of parliament and that, due to this fact, he ought to be relieved of his office prior to the expiration of

THE Swedish office of the Justitieombudsman (the JO) was created in 1809, when Sweden received a new constitution. In this constitution, parliament was given far-reaching means of control over the activities of the government. One of these means of control was the power to appoint a special commissioner (the JO) to supervise courts and administrative agencies. The constitution prescribed and still prescribes that the JO, in the capacity of representative of parliament, shall supervise the observance of laws and statutes, as applied by the courts and by public officials, and institute proceedings before competent courts against those who, in the execution of their official duties, have, through partiality, favoritism, or other causes, committed any unlawful act or neglected to perform their official duties properly. Especially, the JO shall take actions against faults causing general insecurity with regard to the rights of the citizens. According to his instructions, he can omit to bring an action if the error is committed solely because of carelessness. He is supposed to act on complaints or on his own initiative.

THE GENESIS AND THE ORIGINAL PURPOSE OF THE OFFICE

Little is known of what was behind the creation of the office of the JO, or even with whom the proposal originated. Certainly, the office was established against the wishes of the government of that time. It was formed entirely during discussions in the parliamentary committee which, in 1809, when Sweden was engaged in a war with Russia, drafted the new constitution. With regard to the office of the JO, the committee pronounced only that the general and individual rights of the people should be protected by a guardian, appointed by parliament, who should

watch how judges and other officials obeyed the laws. Thus, the office was to guarantee civil rights.

The reasons for the creation of the Ombudsman office are to be found in the state of things in Swedish society at that time. The purpose of the new constitution was to prevent an uncontrolled concentration of power in the hands of the king and his Cabinet, to create guarantees against abuse of power by the authorities, and to give the people liberty under conditions regulated by law. The shape of the constitution was influenced by experiences in the past history of Sweden, with dangers arising from uncontrolled power in the hands of the Cabinet and of agencies directed by the Cabinet.

It may be that the committee did not see anything spectacular in the creating of the Ombudsman institution. As was already pointed out in the preceding article by Mr. Wennergren, there had been since 1713 a commissioner—the king's Chancellor of Justice—with duties to supervise officials. The Chancellor was, however, a servant of the king and had to obey the Cabinet. It was maintained that the Chancellor was not independent enough to be in a position to protect the citizens sufficiently. It was therefore held that the authorities should also be controlled by an office entirely independent of the government. The response to this opinion was the creation of the office of the JO. What parliament wanted was a control that did not depend on what suited the government.

The basic idea behind the creation of the JO's office was that the courts and other authorities would be less inclined to disregard the law in order to serve the wishes of the Cabinet if the activities of the authorities were watched by a people's tribune who was independent of the government. Thus, the suspicion against the government prevailing in

The Origin, Nature, and Functions of the Civil and Military Ombudsmen in Sweden

By ALFRED BEXELIUS

ABSTRACT: As shown by Wennergren and others, the idea of an Ombudsman, or Citizen's Defender, originated in Sweden about a century before the office was created in the constitution. The present article covers the history of this institution from 1809 to the present. As far as is known, the Swedes were not influenced by the experience of classical and medieval governments in establishing an office to guarantee civil rights. Conditions in 1809 demanded that something be done to restrain injustice, maladministration, and other governmental practices offensive to the citizens. The Justitieombudsman and, later, the Militieombudsman (Military Commissioner) are responsible to the Riksdag (parliament), but in their work they have always been independent. The Ombudsman has considerable discretion in handling complaints. He sometimes finds it necessary to recommend changes in the law. In their history of nearly 160 years, these offices have operated to give the citizens confidence that their legitimate grievances will be remedied. At the moment of this writing, the Riksdag is about to make a decision concerning a reform which would combine the JO and the MO into one office with three Ombudsmen.

Alfred Bexelius, a career judge before being elected Ombudsman in Sweden, is presently serving his third four-year term as Ombudsman. He has written widely on the subject and has testified before congressional and legislative committees in the United States, the last time in 1966. He has contributed chapters to a number of books which are world-wide surveys of the Ombudsman institution, and because of the tremendous interest in this essentially Swedish institution, he has had to make his annual reports and special bulletins available to scholars from many lands.

Others, however, obviously had that intention, as we note in the fact that during the deliberations in the committee, an office emerged that is a veritable copy of that of the 1766 Ombudsman. He is called the Justitieombudsman, the Commissioner of Justice. The creation of two supreme Ombudsmen—one for the king and one for the Riksdag—looks like a compromise and, in all

probability, was one. But it may also be looked upon as evidence of the great importance that was attached to the control of the bureaucracy. Thus, an additional stone was placed in the bulwark against official wrong, to complete the guarantees offered the people in the shape of appeals, penal responsibility, document publicity, and whatever else the legal system had developed.

formed into an "Ombudsman of the Riksdag." The Riksdag declared that the office enjoyed the utmost confidence that a free people could give any of its members and that the officeholder therefore should be elected by special electors chosen by the estates. The term of office was limited to the period between two sessions of the Riksdag. Every citizen was entitled to free access to the Chancellor in order to be able— orally or in writing—to draw the Chancellor's attention to whatever the citizen considered a wrongdoing by an official that might deserve to be denounced.

DOCUMENT PUBLICITY

In the same year, another important event took place. An ordinance was passed that established the freedom of the press. But it did not stop at that. The ordinance also declared free access to the records or other documents of the courts and the administrative authorities, with necessary exceptions. Every citizen was entitled to read, copy, and print public documents. The scrutiny of records and files by the Riksdag committee stopped here. Individual members and common citizens now were supposed to take over the control of the bureaucracy that could be exercised by the examination of public documents. They could report the faults that they found to the Chancellor, who had to take care of the indictment. The system of document publicity is still in force and is regarded as one of the most valuable guarantees against official wrong.¹⁰ To cite Nils Herlitz, the principle of document publicity sees to it that the officials, at the moment of

decision, are already under the pressure of a well-informed public opinion.

CONSTITUTIONAL REFORM

In 1772, a *coup d'état* took place, with the result that power returned into the hands of the king. This meant, among other things, that parliamentary control was reduced. The Chancellor of Justice, for instance, became, as he originally had been, the Supreme Ombudsman of the king, appointed by him and reporting to him. Some decades later a new *coup d'état* occurred, this time directed against the king, who was removed. It was decided that a new constitution should be written. A proper balance with adequate checks both on the Executive and on the bureaucracy was needed, but without the exaggerations of the Era of Freedom. The period of royal absolutism that had followed upon that era also motivated a division of power.

The leaders of the *coup d'état* formed a government and made a draft constitution, which they handed over to the Riksdag, where a committee worked on it. According to Article 90 of the constitution, decisions, resolutions, and judgments of the executive or judicial authorities shall, in no case or manner, be subject to consideration or investigation by the Riksdag, its houses, or committees, except as literally prescribed by the fundamental laws. The excesses of the Era of Freedom caused the framers to be careful. In the governmental draft, the Chancellor of Justice remained as Attorney General and as the king's Supreme Ombudsman, who should supervise the administration of justice and, in this capacity, prosecute offenses committed by judges and officials (Article 27). The authors of this draft thus did not intend to revive the office as a parliamentary office, such as it had been during the Era of Freedom.

¹⁰ Nils Herlitz, *Publicity of Official Documents in Sweden: Public Law 1958*, pp. 50 ff; and United Nations, *1962 Seminar on Judicial and Other Remedies against the Abuse of Administrative Authority* (ST/TAO/HR/15) (New York, 1962), pp. 22 ff.

matters, led by a "Högsta Ombudsman," a Supreme Ombudsman of the king, and the others led by officials named "Ombudsråd." The reforms only partly came into being. The Supreme Ombudsman was one of them which was realized. He should be the chief of all Ombudsmen of the king and keep general supervision over the observance of the laws and statutes. When finding any negligence of duty or abuse of power, he should see to it that an Ombudsman prosecuted the responsible official. In high cases, he should himself represent the king. The duties stand out as a development of the legal tasks of the Chancellor of the King. It is therefore not surprising that the title of the official, some years later, in 1719, was changed from Supreme Ombudsman to Chancellor of Justice. Behind the weight laid upon the office by Charles XII, were, in all probability, experiences during Charles' warfare in Europe when the need for checks on the bureaucracy revealed itself most embarrassingly. Prosecution as a main means of control attached itself naturally to the responsibility of the officials. When Charles XII died, the power went out of the hands of the king and into the hands of parliament. The Era of Freedom began. It is therefore time to introduce the parliament.

PARLIAMENTARY CONTROL

Four estates grew out of the amorphous medieval society: the nobles, the clergy, the burgesses, and the peasantry. The small people—the crofters, the menservants, the soldiers, the sailors, the miners, and other workers—were outsiders. They had no political rights and lived more or less on the grace of those who belonged to one of the estates. They were not without human rights. They could, for instance, complain to the king about wrong-

doing by peasants or officials. But their chances of having wrongs righted were not brilliant. When a parliament, the Riksdag, was organized in the fifteenth century, it was built upon the estates. In the beginning, the representatives of the estates did not come together for a Riksdag very often. They were summoned, in the sixteenth century, when needed for vital decisions. In the seventeenth century, they met more regularly, and their exclusive right to grant new taxes was firmly established. The Riksdag monopoly on the enactment of laws also was confirmed, and its control over the Executive began to be asserted. In the Era of Freedom, the role of the Riksdag radically changed. During that era, Sweden was, in reality, governed by the Riksdag in a rather modern, democratic way. The techniques of parliamentary control developed as far as practically possible, and even farther. The Riksdag, now and then, even functioned as a final authority in judicial or administrative appellate matters, thus causing much inconvenience and disturbance in the public machinery. The control of the bureaucracy, including both administrators and judges, was given much attention. The control was exercised by a parliamentary committee, to which the agencies were to send periodical reports. Later on, they were even asked to submit all their records for scrutiny. If the committee found that an official was guilty of a fault, a prosecution could be instituted. It is significant for the new situation of power that the one who should act as prosecutor on behalf of the Riksdag was the Chancellor of Justice. He turned into an "Ombudsman of the Riksdag," although formally appointed by the king. The Riksdag bound him more and more closely to itself and made it a duty for him to give sessional reports to the Riksdag. In 1766, the Chancellor was, in all respects, trans-

article of the constitution declares, after having mentioned the duties of the officials, that they are "responsible to the king in accordance with the law for any omission, negligence or illegal action." Of course, this did not and does not mean only a guarantee for obedience and efficiency, but it is also a safeguard for the citizens, as the penal responsibility promotes legally correct behavior.

INDEPENDENCE AND IRREMOVABILITY

Making the breach of duty a crime of office also results from another typical feature of Swedish public administration. Most of the king's officials perform their duties in places which in early times were not easy for the central government in Stockholm to reach. For practical reasons, it was not possible to give orders and to exercise control in each individual case. The officials had to be left, to a considerable degree, to their own devices, to a kind of local self-government. The penalty of law then functioned as a remote control. The central government, however, was anxious to limit the discretionary field as much as possible. It did so by regulating — programming — public administration by general rules. All of this had already started in the sixteenth century, increased in the seventeenth, and culminated in the eighteenth century. The just-mentioned culmination resulted from a certain distrust of the bureaucracy on the part of the ruling Riksdag and on the general ambition of the Riksdag to guide and control the bureaucracy. In the statutes and ordinances, the Riksdag found means of commanding the bureaucracy. The aim was, as Stig Jägerskiöld has put it, to get a stable, correct, and law-bound administration under public control.⁷

⁷ Stig Jägerskiöld, "Swedish State Officials and Their Position under Public Law and Labour Law," *Scandinavian Studies in Law*, 1960.

Into the pattern that has now been drawn, another feature fits very well. A programmed public administration presupposes independent officials who take care of the programs and realize them without having to look askance. To secure desirable independence, the officials were, to a great extent, given irremovability of the same kind that is usually given to judges. This, of course, also suited the officials very well. It satisfied their wishes to be protected against arbitrary dismissal. The idea developed so far that promotion to an office finally meant receiving a vested property right. The principle, however, was modified by the constitution of 1809, in which Article 36 stated that judges and other public employees cannot be dismissed or removed from office except after trial and conviction for a crime or by individual applications for transfer or promotion. The concept of breach of duty as a crime is, of course, an indispensable link in that system.

Pierre Vinde sums up today's situation as follows:

By tradition, the Swedish civil servant tends to feel that he is in a sense a judicial officer. His security of tenure, in principle guaranteed by irremovability without a trial in a civil court, makes the civil servant fairly insensible to undue pressure. At the same time, all civil servants, as well as the lay members of the Agency Boards, are personally responsible for the legality of their decisions and actions (or lack of action).⁸

A SUPREME OMBUDSMAN

In 1713, Charles XII made a draft of an ordinance for the Chancery.⁹ The idea was that the Chancery should be divided into six bureaus, one for legal

⁸ Vinde, *op. cit.*, p. 16

⁹ Sten Rudholm, "The Chancellor of Justice," in Donald Rowat (ed.), *The Ombudsman: Citizen's Defender* (Toronto: University of Toronto Press, 1965).

nels to follow were also indicated, and the authorities were told to give appeal references with their decisions. Other ordinances completed the system. It lasted until 1909, when a Supreme Administrative Court, the Regeringsrätten, was organized to take care of the administrative appeals which came to the king. This court, exactly like its sister court, the Supreme Court of Justice, judges in the name of the king, fulfilling his function as the guardian of the law in the administrative field. However, not all administrative appeals are delegated to the Supreme Administrative Court. Some, mostly concerning discretionary matters, have remained within the competence of the king in council, that is, the government (the Executive). With regard to those matters, there is a gap in the judicial control which is executed by ordinary and administrative courts with regard to the Executive as, in principle, no court is competent to examine a decision of the king in council. The question of expanding the range of judicial protection has, as Nils Herlitz says, been "a burning issue" in the last two decades.⁵

Administrative appeal is, as Nils Herlitz has pointed out many times, the central point in the Swedish system of legal protection of the citizens against official wrongs. Herlitz characterizes this remedy as a weapon by which the individual is able to reject encroachments upon his legally protected interests by subordinate authorities and to get a decision about the matter from a superior authority—in the last instance, the king (in the Supreme Administrative Court or in the Council). The right of appeal is legally guaranteed. No court or council can refuse to consider an appeal that is made in due order. Another typical trait is that the

matter will be reconsidered, in all respects, by the appellate institution. Both the questions of legality and the questions of discretion must be examined, and the superior institution is entitled not only to quash the decision, but also to substitute a decision of its own for a reversed one. Thus, there are important differences between the Swedish Supreme Administrative Court and the French Conseil d'Etat, although they also have very much in common. It should be added that, for some administrative fields, special administrative courts have been organized, for example, the Social Insurance Court. In taxation matters, the old Audit Court functions on a level below the Supreme Administrative Court.

ROYAL SUPERVISION

The obligation of the king to guard the law applied also to his officials, the Ombudsmen, particularly the royal bailiffs and prosecutors, who were stationed in the hundreds or in even smaller communities. But who watched those watchers? The provincial governors and the king. In the seventeenth century, an office comes into focus in this connection, namely, the office of the Hovkanslern, the Chancellor of the King. He was supposed to be the legal right hand of the king in the Chancery. About 1680, his duties were extended, when the king added the function of being the king's first Ombudsman (attorney general) to his responsibilities. Another important thing that happened during the seventeenth century was that the principle of penal responsibility for all state officials became firmly established. This legally enforced loyalty toward the law and the king is still in force, and is among the most striking peculiarities of Swedish public law.⁶ An

⁵ Nils Herlitz, "Swedish Administrative Law," *Scandinavian Studies in Law*, 1959 (Stockholm, 1959), p. 97.

⁶ Pierre Vinde, *The Swedish Civil Service* (Stockholm, 1967), p. 25; and *The Penal Code* (Stockholm: Ministry of Justice, 1965), p. 49.

justice and truth and suppress all wrong and injustice, both by law and by his royal power. The king shall be loyal and faithful toward his people so that he does not injure anyone, rich or poor, in any way as to life or limbs, without legal trial and sentence, nor must the king deprive anyone of any property except in accordance with the law.

This oath reflects a very strong feeling for the rule of law. The remarkable thing is that the words of the oath have been preserved all through the centuries in the constitutional laws and are still to be found—only slightly altered—in the constitution of 1809. The relationship to the principle of the king as the guardian of the law in old Germanic law is easy to perceive. But no other country has stuck to it with such obstinate insistence as has Sweden.⁴

According to the oath, any peasant or other subject could appeal to the king and ask for his protection and for justice—for instance, when an officer, a bishop, a bailiff, or some other official of the king had wronged him. As the guardian of the law, the king had to act and try to help him. This right of the individual to appeal to the king is still a living concept in Swedish society and is regarded as the most valuable guarantee against official wrongdoing. In olden times, it also meant much as protection against powerful magnates and nobles.

JUDICIAL APPEALS

The right to appeal to the king developed, by and by, into an appellate system that covered both judicial and administrative matters. For appeals against court decisions, a royal court was established in 1614, the Svea

Hovrätt, that was supposed to judge in the name of the king. But so highly was the right of appeal directly to the king esteemed that the people did not accept the court decisions as final. They forced the king to receive appeals against the sentences of the royal court. The appeals were examined by the king himself and/or his council. In the eighteenth century, the council took over the entire task. It was administered by a special division—the Justitierevision—until, in 1789, this division was transformed into the Supreme Court of Justice. But the king could still personally take part in the deliberations of the court if he wanted to—which he did not—and he held two votes in the court until 1909. The court still judges in the name of the king. Its activity formally belongs to the king's duty to guard the law. It is the judicial power of the king that is vested in the Supreme Court. Thus, the present is linked to the past.

ADMINISTRATIVE APPEAL

No court for administrative appeals was established in the seventeenth century. Instead, the king urged his subjects to go, not directly to him, but first to the provincial governors and to the central boards which were organized during that century. A kind of administrative jurisdiction developed at the administrative levels which formed a hierarchical organization, with the king as the supreme authority. Appellate matters were treated in ways similar to those used by courts. Those appeals which reached the king were mostly delegated to a division of the council. In 1759, a code of administrative appeals was enacted which prescribed, among other things, that certain time limits should be observed by the one who wanted to appeal against an administrative decision. The hierarchical chan-

⁴For a more detailed picture, see Nils Herlitz, *Sweden: A Modern Democracy on Ancient Foundations* (Minneapolis and Stockholm, 1939). See also Roberts, *op. cit.*, p. 37

persons of the provinces. The kingdom was an electoral one. As the Västergötland law, which dates from the thirteenth century, puts it: "The Swedes may take a king but may also depose him."

At that time, Sweden still was a country of peasant communities. But some peasants were great peasants, and some could even be regarded as magnates. Towns and mining districts also began to grow in importance. The establishment of an organized kingdom gave rise to a nobility recruited from the magnates and great peasants. The clergy and the learned professions also rose from the peasantry.¹ Central governmental officials, army officers, and the like, also appeared in the new kingdom. The establishment of a taxation system entailed the institution of permanent royal tax collectors, who acted as the king's men in other respects, too, and restricted the area of self-government more or less.

RULE OF LAW

It has been said ² that a deep-rooted respect for the individual and for all vested rights is an essential part of the Swedish legal system. This is true, and has been so as far back in history as we can look. There are, of course, many examples of kings, magnates, bishops, officers, bailiffs, and other persons who have abused their power and have not shown due respect for law, but, all in all, Sweden has been a legally civilized country for the last thousand years. In this connection, the Uppland law is often cited. There we find the proud words: "The land shall be built upon law."

¹ About the role of the peasantry, see Michael Roberts, *Essay in Swedish History* (London, 1967), p. 5

² Schmidt-Strömholm, *Legal Values in Modern Sweden* (Stockholm, 1965), p. 35.

LOCAL COURTS

The system of self-government guaranteed a certain degree of protection against official wrongs for the members of the villages and other communities. They could defend themselves at the Ting against the demands of the Länsmän and the bailiffs. Together, they represented a considerable amount of power. Furthermore, one who felt that he had suffered an injustice or injury from a governing self-governmental body, or from someone functioning on behalf of a community, could appeal to the Ting of the hundred or to the Ting of the province, and the Ting could redress his grievances. But against the high officials of the king, the magnates, the bishops, and the like, the Tings could not easily vindicate citizens' positions. The ordinary courts of law have, as a consequence, never played an important role as protectors against official wrongs. With few exceptions, they still lack power to exercise judicial control over the administration.³

GUARDIAN OF THE LAW

The peasantry early became aware of the limited judicial powers of the Tings and found it natural to compensate for this by securing a right of protection from the strongest in the country, the king. They did it by requiring a condition for election that the king should protect them. In the first body of laws which applied to the whole country (enacted in 1442), Magnus Eriksson's *landslag* (law of the land), we find the oath that the elected king had to swear.

The king shall love God and the Holy Church and confirm its rights, leaving however all rights of the king, the crown and all Sweden's people uninjured. The king shall promote, love, and care for all

³ Schmidt-Strömholm, *op. cit.*, p. 31

citizens may be dealt with by the Ombudsmen as illustrated in Table 1.

These limitations are obviously designed to cut down the number of complaints to the Ombudsman, especially while other administrative resources are still available. The Swedish Ombudsman does not have any of the four conditions, but this is not without reason. First, Sweden has, in fact, four Ombudsmen—the Ombudsman for Civil Affairs and his deputy, the Ombudsman for Military Affairs, and the Chancellor of Justice; second, the long history of the Ombudsman has created a satisfactory norm which the administrators may follow; third, Sweden has a well-established system of administrative courts in which complaints against administrative decisions may be lodged; and, finally, Sweden has an open administration, where maladministration is more easily located. These reasons hold also for Finland, except that in Finland, instead of four, there are only two Ombudsmen: the Chancellor of Justice and the Ombudsman.

Shift in main purpose

One significant development in the institution of the Ombudsman is the shift of its main purpose. The original purpose for adopting the Ombudsman system was to provide the individual citizens with an office where they could lodge complaints against administrative decisions and through which they could get their grievances redressed. However, in examining the action taken on complaints for which remedies were afforded each year in the five countries under consideration, it is noted that this main purpose has become a by-product of the Ombudsman's activities. The main purpose of the Ombudsman has become promotion of better public administration. This is because in all of these countries, the Ombudsmen tend to

substitute admonition for prosecution or disciplinary action against officers who have been proven at fault. In the Scandinavian countries, about 10 per cent of the total cases received generally require redress. In New Zealand, the number of cases requiring redress is also about 10 per cent of the total received, and about 20 per cent of the total investigated. It is difficult to estimate, however, how many complainants are not given redress and yet are satisfied with the Ombudsman's explanation. Inevitably, the Ombudsman cannot satisfy all the complainants whose complaints are disallowed for one reason or another, often because the complaint is outside the jurisdiction of the Ombudsman. On the other hand, the comparatively large percentage of admonitions sent by the Ombudsman to government officials is significant. The effect of these admonitions may even extend to other government officials who are not directly involved. This seems to be natural, especially when the minister is responsible for the efficiency of the administration within his own ministry. Thus, the Ombudsman's admonitions, in fact, correct administrative malpractices and prevent their recurrence. In this respect, the activities of the Ombudsman tend gradually to create a body of "Ombudsman laws" for government officials, as a guideline for their conduct. In this way, by improving administration and thus preventing the recurrence of administrative injustice, the Ombudsman provides not only direct but also powerful indirect protection against unjust administrative decisions.

THE OMBUDSMAN IN DEVELOPED COUNTRIES

Another interesting phenomenon is the growing interest in the Ombudsman exhibited by developed and developing countries alike.

Great Britain

In Great Britain, the Labour Government, in October 1965, presented to the House a White Paper on "The Parliamentary Commissioner for Administration";⁴ and in February 1966 a formal "Parliamentary Commissioner Bill" was tabled in the House.⁵ The bill, with certain modifications, was eventually approved by the parliament in March 1967. Sir Edmund Compton, Comptroller and Auditor-General, was appointed as the first Commissioner, and took office in April 1967.⁶

The basic framework of the British scheme follows closely the recommendations of the Whyatt Report of 1961.⁷ But one of the most significant features of the Whyatt Report, which has been severely criticized by many people, has not been adopted by the British government—the power of a minister to veto a proposed investigation in his department by the Commissioner. On the other hand, the Commissioner is prevented from revealing any information or document if, in the opinion of the minister, "safety of the State" or "public interest" is affected.

The greatest restriction of the British scheme is that the aggrieved citizens are precluded from direct access to the Commissioner; he will receive complaints only from Members of Parliament (MP's) and will report the result of the investigation to them—and, if the

injustice has not been remedied by the government, to the House as well. The requirement that complaints be referred to the Commissioner only by a member of the House suggests the desire of the individual MP to safeguard his own traditional role as guardian of the citizens in his constituency. But the effectiveness of this role is itself in doubt; and the interposition of the individual MP between aggrieved citizens and the Commissioner will seriously undermine the basic concept of the Ombudsman. Moreover, if the individual MP declines to communicate the result of the Commissioner's investigation honestly to the complainant concerned, the Commissioner's prestige will be gravely affected.

However, as Great Britain is the first great nation in the democratic world to adopt a version of the Ombudsman system, the success of the Ombudsman there will be watched with great interest by other countries.

Canada

In Canada, the response to the Ombudsman idea has been tremendous during the last two years. At the federal level, several private members' bills proposing an Ombudsman for Canada had been tabled in the House since 1962. Although none was adopted by the House, the Ombudsman idea has thus been kept alive. In fact, in 1964, a parliamentary committee was created to study the scheme; Sir Guy Powles, New Zealand's Ombudsman, and Professor Donald C. Rowat, the leading Canadian expert on the subject, were among those invited to give testimony.⁸ The committee recommended an Ombudsman not only for the federal government, but also for each of the prov-

⁴ Great Britain, Cmd. 2761, October 1965, "The Parliamentary Commissioner for Administration."

⁵ Great Britain, *Bills*, 70, "Parliamentary Commissioner Bill."

⁶ See D. C. Rowat, "Recent Developments in Ombudsmanship," *Canadian Public Administration*, Vol. X, No. 1, 1967, p. 41.

⁷ Sir John Whyatt (ed.), "The Citizen and the Administration: The Redress of Grievances" (London: Steven, for Justice—British Section of the International Commission of Jurists, 1961).

⁸ For Sir Guy Powles' testimony, see Canada, House of Commons, Standing Committee on Privileges and Elections, *Minutes*, No. 6. For Professor Rowat's testimony, see *Ibid.*, No. 7.

inces. Although the federal government announced in its Throne Speech of 1965 that it would appoint a royal commission to study the subject, the commission had not been appointed by the end of 1967. However, the Prime Minister recently stated that his government has been discussing the matter with the provinces.

A much more enthusiastic response to the Ombudsman scheme has been shown at the provincial level in Canada. Since 1965, all except one of the ten provinces have been studying the subject in one way or another. Two provinces have already acted. Alberta's bill⁹ for an Ombudsman was adopted by the provincial legislature on March 30, 1967, and the retiring head of the federal Royal Canadian Mounted Police was appointed the first Alberta Ombudsman, taking office in September 1967. In New Brunswick, an Ombudsman bill was passed by the legislature in May 1967,¹⁰ and in October it was announced that the Ombudsman would be the former president of a university. In Manitoba, in December 1966, the government presented a white paper to the legislature proposing the establishment of an Ombudsman for the province,¹¹ but no legislative action had yet been taken by the end of 1967.

One significant difference between the Ombudsman scheme of Alberta and that of New Brunswick is the tenure of the Ombudsman. Alberta's scheme provides a five-year term while New Brunswick's provides a ten-year term. Both Ombudsmen can be removed for cause by

their respective Cabinets, acting on the advice of the legislature. When the legislature is not in session, New Brunswick's Ombudsman can only be suspended, and only upon an application to and approval by a judge of the Supreme Court of the province. If such an action were taken, the judge would have to appoint an acting Ombudsman until the legislature had dealt with the suspension. Alberta's scheme does not have the court interposed between the Executive and the Ombudsman in the matter of suspension. There, when the legislature is not in session, the Executive can take the initiative to remove or suspend, pending, of course, the final approval of the legislature when it reconvenes. Moreover, while New Brunswick's Ombudsman may delegate any of his powers to a subordinate, other than the power of delegation and the power to make reports, Alberta's Ombudsman, like the New Zealand Ombudsman, can do so only with the approval of the Cabinet. Thus, New Brunswick's Ombudsman system is much more independent of the Executive than that of Alberta.

One common feature of the two Ombudsman schemes is that neither has jurisdiction over local government. Also, unlike the Manitoban and British schemes, both can receive complaints directly from the citizens

The government of Quebec also announced, in its Throne Speech of December 1966, that it would appoint an Ombudsman for that province, but has taken no action to date. At the municipal level of that province, the ruling party of the new city of Laval had committed itself, during the first local election campaign, to adopt the Ombudsman scheme. No concrete action seems to have been taken yet to implement the promise.¹²

⁹ Alberta, Legislative Assembly, *Bills*, No. 7, "An Act to Provide for the Appointment of a Commissioner to Investigate Administrative Decisions and Acts of Officials of the Government and its Agencies" (Edmonton: Queen's Printer, 1967)

¹⁰ New Brunswick, Legislative Assembly, *Bills*, "Ombudsman Act"

¹¹ Manitoba, Legislature, "Citizen's Remedies Code," December 1966.

¹² Stanley V. Anderson, *Canadian Ombudsman Proposals* (Berkeley: Institute of Gov-

United States

In recent years, interest in the Ombudsman scheme in the United States has been as enthusiastic as in Canada. At the federal level, since 1963 Congressman Reuss has been persistently keeping the subject of the Ombudsman alive in the House of Representatives. He first proposed an Ombudsman bill to the House in 1963, and he reintroduced it to the House in 1965 and again in 1967. The bill provides that the congressional Ombudsman would receive complaints from the congressmen and report to them only. In 1967, Senator Long sponsored a bill for an Ombudsman who would receive complaints directly from the public, but only for certain departments, thus limiting his work-load.

It appears that, influenced by the growing popularity of the Ombudsman concept within the country and abroad, the adoption of a federal Ombudsman scheme in the United States may not be too far from realization.

The response to the Ombudsman idea has been even more encouraging at the state and local levels in the United States. In 1967, Hawaii approved a scheme modeled on the Danish-New Zealand prototype. By the end of that year, about a third of the state legislatures had received Ombudsman bills, and some municipal councils, including that of New York City, and several other states and cities had shown a definite interest in the scheme.

Western Europe and Australia

Response to the Ombudsman plan is also found in other developed countries, for example, Ireland, the Netherlands, Switzerland, Austria, West Germany, and Australia. In West Germany, a bill proposing an Ombudsman plan for the

Environmental Studies, University of California, 1966).

"city-state" of Hamburg was published in 1967. In New South Wales, Australia, it is interesting to note, an Ombudsman scheme is now being considered.¹⁸ Hence there is no doubt that the Ombudsman idea is gaining widespread acceptance in developed countries. Although, at this early stage, it is difficult to predict when all the developed countries will become members of the "International Ombudsman Club," the steady growth of the membership of the "Club" during the next few years seems all but inevitable.

DEVELOPING COUNTRIES AND THE OMBUDSMAN

The developing countries also show a growing interest in the plan.

Guyana

Within the British Commonwealth, Guyana (formerly British Guiana) has become the first developing country to adopt the system (in May 1966, when Mr. Gillette, Q.C., former director of public prosecutions, was appointed to the office). The Guyana Ombudsman is modeled, with some variations, on the New Zealand Ombudsman scheme. Under the constitution of Guyana, the Ombudsman is appointed by the Governor-General on the advice of the Prime Minister and after consulting the leaders of the opposition parties. This consultation is indeed necessary, as Guyana is a multiracial country where the Ombudsman is expected to deal with some of the racial problems. The constitution also provides a four-year tenure for the Ombudsman, who can be removed for cause by the Governor-General only on the recommendation of an inquiry tribunal composed of three high court judges or of persons having equal qualifications and experience.

One significant feature of the Guyana

¹⁸ See Rowat, "Recent Developments in Ombudsmanship," p. 44.

Ombudsman is that he may investigate a complaint even if "the complainant has or had a remedy by way of proceedings in a court, if satisfied that . . . it is not reasonable to expect him to take or to have taken such proceedings."¹⁴ This discretion of the Ombudsman to entertain complaints is particularly needed in a developing country if he is expected to remain a "common man's defender." The main function of the Guyana Ombudsman is to investigate whether the complainant has sustained "injustice in consequence of a fault in administration." Article 56 of the constitution includes under "fault in administration" discrimination on grounds of race, place of origin, political opinion, color, or creed. The Guyana Ombudsman has recently submitted his annual report to parliament.

Many people argue that the Ombudsman system works well in the Scandinavian countries and in New Zealand partly because of their homogeneous populations, and that the Ombudsman system would be difficult to adapt to a heterogeneous society. The Guyana Ombudsman will thus play a very important role in the development of the Ombudsman institution. If it is successful there, this will prove not only the suitability of the system to the Guyana administrative and political environments, but also its transplantability to other developing countries. Hence the operations of the Guyana Ombudsman will be watched with great interest by all other developing countries.

Mauritius

In Mauritius, a British island-colony in the Indian Ocean, the idea of an Ombudsman was discussed as early as 1961, and no minister belonging to any political party was then opposed to the

¹⁴ Guyana, *Constitution of Guyana*, Art. 55(3)(b).

principle of creating such an office in Mauritius. At the Mauritius Constitutional Conference held in London in September 1965, the new constitution approved for Mauritius included provisions for the creation of an Ombudsman.¹⁵ However, the appointment of an Ombudsman has been delayed until the question of the independence of Mauritius has been settled. With respect to appointment and removal, the Mauritius Ombudsman scheme will be much the same as that in Guyana. However, unlike his counterpart in Guyana, the Mauritius Ombudsman will be entitled to decline investigation if the event dealt with in the complaint occurred beyond a six-month limit. Obviously, this is aimed at cutting down the work-load of the Ombudsman.

Singapore

In the Republic of Singapore, the Constitutional Commission has recommended an Ombudsman system which is, in some ways, like the Guyana model.¹⁶ Although the Commission was silent as to what procedure the government should follow in appointing the Ombudsman, it emphasized that "the Ombudsman must be an independent officer secure from any form of interference or pressure." The government, while agreeing with the thinking behind the Ombudsman scheme, has decided to defer the matter for five years.

Malaysia

The government of Malaysia has also taken a direct interest in the Ombudsman. During his visit to New Zealand a few months ago, the Malaysian Deputy Prime Minister had discussions with the New Zealand Ombudsman and even

¹⁵ Great Britain, *Reports*, 1965, Cmd 2797, "Mauritius Constitutional Conference"

¹⁶ See Republic of Singapore, Constitutional Commission, *Report* (Singapore. Government Printer, 1966), pp. 20-22.

invited him to visit Malaysia to study the feasibility of establishing the system in Malaysia.¹⁷ The New Zealand Ombudsman, Sir Guy Powles, has accepted this invitation, and he is expected to arrive in Malaysia early in 1968.¹⁸

India

In India, the idea of the Ombudsman system was expounded as early as July 1959, when Mr. C. D. Deshmukh, a former finance minister who was then Chairman of the University Grants Commission, called for the establishment of an impartial tribunal to investigate and report on complaints. Since then, persistent demands for an Ombudsman have come from all levels of Indian society.¹⁹ In 1963 an Administrative Reforms Committee appointed by the government of Rajasthan recommended an Ombudsman for that state.²⁰ The main feature of the Rajasthan Ombudsman would be that he could investigate a complaint whether or not the complainant had a personal interest in the matter complained of. To avoid an overburden of complaints, the Committee recommended that he should be concerned with those actions that were taken by the ministers and the senior officials. Moreover, complainants would have to pay a small deposit to the Ombudsman as a guarantee of good faith. It is not known yet whether the Rajasthan government took any positive action in response to these recommendations.

At the federal level, an Administra-

¹⁷ I should like to thank the Chief Secretary of the government of Malaysia for this information.

¹⁸ See "Ombudsman Plan for Malaysia," *The Malay Mail*, October 25, 1967.

¹⁹ For details of the early response to the Ombudsman scheme, see J. B. Monteiro, "Comment," *Public Law* (Summer 1965), pp. 81-85.

²⁰ Rajasthan, Administrative Reforms Committee, *Report* (Jaipur: Government Central Press, 1963), par. 3.13.

tive Reforms Commission was constituted in January 1966 to examine the over-all administrative problems of the union government. In an interim report to the Prime Minister, it recommended a single Ombudsman for the union and state ministers and secretaries and, below that level, one Ombudsman for the union government and one for each state government.²¹ Although it is not known as yet what response the federal government will make to this recommendation, the prospect of having the Ombudsman system adopted there appears to be bright. The federal government has, in the past, repeatedly stated that it accepts the idea of the Ombudsman.

The Ceylon Colloquium

Apart from the proposals for Singapore and India, the Ceylon section of the International Commission of Jurists has also played a significant role in the spread of the Ombudsman idea. In January 1966, it sponsored a "Colloquium on the Rule of Law" in Colombo.²² The conclusion of the Colloquium was that there is a practical need for the Ombudsman in the Asian and Pacific region. Because the Ceylon Colloquium was attended primarily by people from the Asian and Pacific region, this conclusion reflects to some extent the response of the various countries in this region to the Ombudsman idea.

Latin America

The United Nations Seminar held in Jamaica in May 1967 has played a similar role for the Central and South American region. The Swedish Ombudsman

²¹ India, Administrative Reforms Commission on Problems of Redress of Citizens' Grievances, *Interim Report*, October 1966, p. 12.

²² See *Bulletin of the International Commission of Jurists*, No. 26 (June 1966), pp. 7-9.

gave a paper there, and the Latin-American delegates agreed that the institution should be adopted in their countries.

Africa: The Tanzanian Enquiry Commission

The idea of introducing the Ombudsman system to tropical African states was recently aroused by discussion among prominent scholars.²³ In fact, in Tanzania, where a *de jure* one-party state was created in 1965, the One-Party State Commission recommended the creation of a six-man permanent commission to deal with complaints against the abuse of power by officials of the government and the party alike.²⁴ Accordingly, an act providing for a three-man Permanent Commission of Enquiry was passed in March 1966. Apparently, the creation of this Enquiry Commission was, to a considerable extent, influenced by New Zealand's Ombudsman system. During their early months in office, both the Chairman and the Secretary of the Enquiry Commission visited New Zealand. By the end of 1966, the Enquiry Commission had dealt with more than a thousand complaints.

One of the greatest drawbacks of the Tanzanian scheme, however, is that it is controlled by the Executive. The President appoints the Commission, and its Chairman, a former Cabinet minister, is held responsible to the President and reports only to him. This will seriously weaken his independent position as a guardian of the citizens.²⁵

²³ See the exchange of correspondence in *Journal of African Law*, Vol. 8, No. 2 (1964), pp. 195-197; *Ibid.*, Vol. 9, No. 3 (1965), pp. 184-185; and *Ibid.*, Vol. 10, No. 2 (1966), pp. 138-139.

²⁴ See United Republic of Tanzania, Presidential Commission on the Establishment of a Democratic One-Party State, *Report*, 1965.

²⁵ See my "Ombudsman in Evolution: Can It be Adapted to Commonwealth Developing

Asia and the Ombudsman idea

The Ombudsman idea, if not the Ombudsman system as such, is already widely spread in the non-Western world. In Asia, for example, a system of administrative agencies established within the Executive branch to receive and investigate complaints from the citizens can be found in Japan, the Philippines, Singapore, and Malaysia. In Japan, the Administrative Inspection Bureau of the Administrative Management Agency, which was established in 1948, performs this function. In the Philippines, this function is performed by the Presidential Committee on Administrative Performance and Efficiency (PCAPE). In Singapore, the Central Complaints Bureau is entrusted with this function. In Malaysia, the newly reorganized Malaysia Anti-Corruption Agency is not only to look into corruption but also to investigate complaints about the inefficiency of government officials. Inefficiency in this respect means "non-enforcement of the law and delay."

EASTERN EUROPE AND THE
MIDDLE EAST

The system of the "Procuracy," which, in part, performs the Ombudsman function, operates in the Soviet Union. Something like the Procuracy system is also found in Poland and Yugoslavia. In Israel, the State Comptroller is performing functions similar to those of an Ombudsman. The Ombudsman plan was adopted in the Israeli capital, Tel Aviv, before 1966.

THE OMBUDSMAN AND WORLD-WIDE
GROWTH IN ADMINISTRATION

What needs to be emphasized here is that the problem of keeping administra-

Countries?" (M.A. essay, Carleton University, Ottawa, 1967), pp. 89-90.

tion from abusing its powers has been growing in all countries, Western and non-Western alike, and some form of machinery is necessary to check such abuse. But because of the growing complexity of government administration, caused, basically, by the growth of population and of governmental services, existing machinery tends to be inadequate to fulfill the purpose for which it was created. During this age of full state participation in social and economic development, bureaucrats may infringe seriously on rights of citizens without even knowing it. Faced with a huge and complex body of government

instrumentalities, an aggrieved citizen may not even know where or to whom to complain. The Ombudsman scheme has spread rapidly in developed countries because they are attempting to solve this problem. Such developing countries as Guyana, for example, have taken the same approach. It is thus obvious that the need for an Ombudsman is growing in all countries, Western and non-Western alike. However, because of the widespread interest in the Ombudsman system in developing countries, they may even forge ahead of the United States in adopting this new machinery.

Finland's Defenders of the Law

By MIKAEL J. V. HIDÉN

ABSTRACT: In Finland, there are two organs supervising the legality of the actions of all tribunals and public agencies. The older one, that of Chancellor of Justice, has traditions dating back to the time, before 1809, when Finland still belonged to Sweden. The Chancellor works in close collaboration with the government and also acts as its legal adviser. The Chancellor is also head of all public prosecutors and is thus also entitled to investigate actions by private citizens. The younger of the two organs, the Parliamentary Ombudsman, was created after the country became independent, by the constitution of 1919. Except that the Ombudsman is entitled to supervise only actions by public officials, the two guardians of the law have similar over-all powers of authority, ranging from the municipal and church authorities to the government itself. In initiating their investigations, as well as in collecting the information needed, they have total freedom: freedom to use any lawful source of information and unlimited access to all documents, internal minutes included, as well as the right to attend meetings of all authorities under their supervision. The way of processing the information can be tailored to fit the case in hand. All decisions are checked personally by the Chancellor or the Ombudsman himself. Although their reaction to a given situation is at their own discretion, and although both guardians of law have the power to prosecute, or to order a prosecution or disciplinary action, such solutions have, over time, given way to a more flexible reaction—a reminder, issued to either the official or the agency concerned. The majority of cases originate in complaints from private individuals. In recent times, only about 6 per cent of the complaints have led to some kind of action by the two guardians of the law.

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THERE are two official guardians of the law in Finland, the Chancellor of Justice and the Ombudsman. The older institution is the Chancellor of Justice, which in 1959 celebrated the 150th anniversary of its establishment as a specifically Finnish institution. It was one of the Swedish institutions which continued to exist after Finland's transition, in 1809, from being a part of the Kingdom of Sweden to being connected with the Russian Empire as an autonomous Grand Duchy. The Chancellor was then renamed "Procurator" to fit in with the Russian terminology. The Procurator, who was appointed directly by the Czar, was given extensive power to check the legality of the actions of all public officials, including the courts of law. He was not the head of the Department of Justice, but he was closely connected with the autonomous government, the Senate, and was expected to be at the meetings of the Senate to check the legality of its actions. It was the duty of the Procurator to supervise even the actions of the Governor-General, who was the highest authority actually resident in Finland. In addition, the Procurator was the head of all public prosecutors. Around the turn of the century, there was a struggle for the maintenance of the laws of the land against measures initiated by the Empire. The Procurators' role during this "period of oppression" was responsible for the development of their image as guardians of the law.

The experience of Sweden with the Justitieombudsman inspired, in the Finnish Diet, during the second half of the last century, several private proposals to establish an Ombudsman in Finland. Some of these proposals were presented to the Czar, but the idea of a high controlling office deriving its authority from a source other than the Czar-Grand Duke was inconsistent with the ideas

current in Russia as to how Finland should be administered. It was only after Finland became independent in 1917 that the Ombudsman was instituted in Finland. The office of the Ombudsman was incorporated in the new constitution of Finland in 1919.

The Procurator was renamed Chancellor of Justice, the traditional name, and the office continued within the new governmental structure set up in independent Finland. The Chancellor of Justice continued to supervise the actions of officials and government members and to act as Chief Prosecutor. And, paradoxically enough, as a continuation of his function during the period when Finland was a Grand Duchy and the Procurator supervised the actions of the Governor-General, the Chancellor of Justice now supervises even the actions of the President of the republic. The idea of establishing the Ombudsman as a kind of parliamentary equivalent for the Chancellor of Justice was comparatively fortuitous. Among the many important questions concerning the new constitution, the idea received very little attention. The institution of the Ombudsman in Finland was the result, not so much of thorough thinking and planning as of using the occasion of a general reorganization of government to adopt an institution which was already familiar from the Swedish tradition.

This may help to make clear to the reader why the first Ombudsman stated in his first report to parliament that there was no real need for the institution. The Chancellor of Justice was already in existence, and the prestige of the Chancellor was such that most persons with complaints to make turned to him. Thus, the work-load of the Chancellor was heavier than that of the Ombudsman from the very beginning. In the early 1930's, there were even some proposals to reorganize the whole

system in such a way as to abolish the office of Ombudsman altogether. In 1933 two special laws were passed which relieved the Chancellor of the obligation of handling certain kinds of cases, which were assigned mainly to the Ombudsman. Since 1933 the work-loads of the two offices have leveled off. At present, there is no doubt about the necessity for both institutions. During these years, there have been a number of private bills proposing that there be a special Ombudsman for the defense forces, but none of these bills has been enacted into law.

THE GUARDIANS' PLACE IN THE GOVERNMENTAL STRUCTURE

Qualifications required for the offices of Ombudsman and Chancellor of Justice are stated in the constitution. Both officials must be distinguished in law. In practice, both of the officials must have completed a formal education in law.¹

The Chancellor of Justice is appointed until age of retirement by the President of the republic. The appointment is decided in the presence of the Cabinet, as is the case with the decisions of the President in general. But,

¹ Of the eleven Ombudsmen who have served in the office since its establishment, all but one had completed the practical training required to qualify for being a judge. Three had the highest academic degree in law; five were former members or referendaries of the Supreme Court, the Supreme Administrative Court, or the Courts of Appeal. Of the twelve Chancellors of Justice who have served in the office since Finland became independent, all had the practical training required to qualify for being a judge. Two had the highest academic degree in law. seven were former members of the Supreme Court or the Supreme Administrative Court. The five incumbents of the office of Ombudsman since World War II were, on the average, 44 years old at the time that they assumed the duties of the office. The corresponding figure for the six Chancellors of Justice since World War II is 56.

unlike many other heads of state in European countries, the President in Finland actually can exercise the powers formally granted to his office by the constitution. In appointment questions, the influence of the President's personal preference is frequently observed.

The Ombudsman is elected by the parliament in a plenary session. Originally, his term was only one year. In 1934 the term was changed to three years, and in 1957, to four years. The term of the Ombudsman runs according to the calendar year, and not according to the terms of those elected to parliament. The election of the Ombudsman is secret, and before it takes place, there is no formal nomination of candidates and no formal discussion. Until 1928, it was possible for the Ombudsman to continue to hold his position as a member of parliament, and most of the persons who received votes for Ombudsman were, in fact, members of parliament or future or past members of parliament. The influence of party considerations, however, certainly did not come to an end in 1928. Many of the persons who have been elected, or who have received votes, in the elections for Ombudsman or Deputy Ombudsman can be identified with one party or another. It is indisputable, however, that all of those who have received more than splinter votes have had the professional qualifications for the post. The trend is, if anything, away from taking partisan considerations into account in the election of the Ombudsman.

As a rule, neither the Chancellor nor the Ombudsman may be given orders or assigned tasks by any authority.² If

² The constitution requires that the Chancellor of Justice shall, upon request, give the President and the Council of State (Cabinet) information and advice. Both guardians may also be ordered to bring action in impeachment proceedings. "Instructions for the Ombudsman" is issued by parliament and, with a few minor changes, dates from 1920. "In-

the parliament is dissatisfied with the Ombudsman, it cannot remove him from office, but it can, in effect, refrain from re-electing him, as has apparently happened once or twice before World War II and twice after that war. In theory, the Chancellor of Justice can be removed by the President of the republic if this is "required by the public good." In practice, the prestige of the Chancellor is so high that he cannot be removed, for example, for taking a stand regarding the legality of a governmental action.³

Both the Chancellor and the Ombudsman are in the highest governmental salary-classification. Their salaries as well as their vacation and pension rights are determined according to the general civil service regulations. The Chancellor of Justice has traditionally had an Assistant Chancellor of Justice, who exercises the same powers as the Chancellor of Justice. The division of labor between them is determined by the Chancellor. The legal staff of the Chancellor of Justice is made up of a number of permanent staff-lawyers appointed by the President on the recommendation of the Chancellor, plus a number of additional lawyers appointed

structions for the Chancellor of Justice" is found in a presidential decree, the latest of which was made in 1957.

³ In practice, the government could resort to "promoting" the Chancellor of Justice if the post of President of the Supreme Court or the Supreme Administrative Court happened to be vacant. The Chancellor may also be refused the legally possible extension of time in office when he reaches retirement age. Of the five Chancellors of Justice who left their office after the war, three were appointed President of the Supreme Court or the Supreme Administrative Court and two were not allowed the maximum legal extension after the age of retirement. In the latter cases, however, to speak simply about "retaliation" by the government would be incorrect—cf. Walter Gellhorn, *Ombudsmen and Others: Citizens' Protectors in Nine Countries* (Cambridge, Mass.: Harvard University Press, 1966), p. 56

directly by the Chancellor within the limits of the annual appropriations. The present staff of the Chancellor includes eight lawyers. There is a Deputy Ombudsman who is elected in the same way as the Ombudsman and who acts only when the Ombudsman is disabled or on leave of absence. The Deputy Ombudsman then has all the powers of the office.⁴ The present legal staff of the Ombudsman consists of three lawyers working full-time and two lawyers working part-time. The Ombudsman engages this legal staff directly and independently.

The fact that the Chancellor of Justice has the duty of supervising the actions of the government as regards their legality and the fact that he is physically in close proximity to the Council of State (the government) have had the consequence that the Chancellor not only exercises a *post facto* legality control but also acts as a legal consultant regarding the legality of proposed governmental action. Thus, the opinions of the Chancellor are often asked before the Council of State or the ministry makes its decision. Inevitably, the public tends to view the close connection of the Chancellor with the government as detracting from his image as an independent guardian of the legality of governmental actions.⁵

The area of jurisdiction of the two guardians of the law in Finland includes

⁴ A private bill proposing that an Assistant Ombudsman be established was referred to the Constitutional Committee of the parliament in the fall of 1966, but it has not yet been acted upon.

⁵ In Finland, the Ombudsman may exercise some of the above-mentioned functions of the Chancellor of Justice. He is entitled to supervise the actions of the Council of State and to initiate proceedings in parliament for the impeachment of a minister. In practice, however, the Ombudsman exercises no preventive control over the decisions of the Council of State. Only once, in 1923, did the Ombudsman attend the meeting of the government

all persons exercising the responsibility of a public official—whether they are serving the state, the municipalities, the church, or semiofficial agencies performing administrative services. The Ombudsman can go no farther, but the Chancellor can go on to investigate the actions of private citizens. By the afore-mentioned laws of 1933, the Chancellor of Justice was relieved of the duty of supervising the military courts and the armed forces, penitentiaries, penal camps, and places of detention in general. He need not handle cases coming from this field, and, as a rule, he refers them to the Ombudsman.

RECEIVING AND PROCESSING INFORMATION

One essential factor for an effective citizen's defender is an unrestricted flow of and access to all information that might be relevant in a given case. In Finland, as in Sweden, all official documents are, as a rule, public. This means that all authorities are legally bound either to let any citizen read the document at the office of the authority or to let the citizen have a copy at his own expense. The main exceptions are internal minutes, documents which pertain to a decision not yet passed, and certain documents which concern confidential affairs of another citizen. Thus, the access to information of the two guardians does not differ drastically from that of, for example, a representative of the press. However, the guardians' rights in this respect are guaranteed in the constitution. They have an unrestricted right to attend meetings of any court or public agency, as well as the right of free access to all the documents of the authorities, internal minutes included. Finally, all authorities are duty-bound to give the guardians all the assistance that they need to perform their duties. As a rule, the Chancellor and the Ombudsman do

not hold regular hearings, but ask the competent police authority to conduct the required investigation. As the guardians are not restricted to specified forms or formal sources of information, they may invite opinions from semi-official or nonofficial sources, and may initiate investigations on the basis of any source of information, for example, a news item in the press.⁶

In his "Instructions," the Ombudsman is enjoined to conduct inspection tours, when necessary, especially in the prisons. The incumbent Ombudsman has been especially active in conducting inspections, and has given added weight to the inspections of other agencies. The agency or institution to be inspected is not informed in advance. The rule is that any prisoner or detainee, or anyone serving in the defense forces who wishes to do so, can have a talk with the Ombudsman without the presence of any person other than a staff lawyer of the Ombudsman. Usually, the Chancellor of Justice does not conduct inspections. In the office of the Chancellor, the primary sources for measures taken on his own initiative are the lists of imposed and enforced jail sentences which the courts and the provincial governments enforcing the sentences, as well as the penitentiaries, are required to send to the Chancellor. These lists frequently lead to actions by the Chancellor.

According to their "Instructions," each guardian has to study the case if anyone lodges a (written) complaint at the office which makes it sufficiently convincing that he has been encroached upon in his legal rights by an official or an agency. No filing fee is required, and the letter need not be written according to any special form. Letters from people whose correspondence may otherwise be regulated must always be

⁶ The main dailies are subscribed to by both offices, and they are regularly scanned.

forwarded, and they must be unopened, except in cases of patients in mental hospitals. The complainant can also be someone not personally involved in the case he writes about, but, as a rule, anonymous writings are not acted upon. Complaints can also come from individuals or offices within administration. In many cases, various authorities, having found faults in the actions of their subordinates, refer the matter to the Chancellor. On the other hand, except for the opinions given by the Chancellor to the government and ministries, neither of the guardians gives advisory opinions to public agencies.⁷

Further information is collected and processed in all cases in much the same flexible way. The Ombudsman reads all the incoming complaints and distributes them among the staff. Both the Chancellor and the Assistant Chancellor see the incoming mail before it is distributed to the staff by the Chief Clerk (*kansliapäällikko*). There are no rigidly followed specializations among the staff members. How a complaint will be proceeded upon depends mostly on the kind of question involved and on the probability of there really being a question worthy of attention. Even the obviously unfounded complaints are distributed to the staff lawyers, and a case of this kind is usually closed with a short letter to the complainant from the lawyer or, occasionally, from the Ombudsman or the Chancellor himself. If the case requires more attention, the lawyer in charge proceeds as he thinks fit. Customarily, formal explanations

are invited from officials or agencies alleged to have proceeded improperly. After he has conferred, if necessary, with the Chancellor or the Ombudsman and after he has collected all the information necessary, the lawyer drafts his decision. The Chancellor or the Ombudsman checks every decision personally. The decision is then signed by him and countersigned by the staff lawyer. The same procedure is followed with letters asking for a formal opinion or explanation.

MODES OF ACTION

Neither of the two guardians has the power to change the actual decisions made by other officials or agencies. Nor do they have the power to issue binding orders regarding decisions which are to be made. The rule is that the guardians are not to interfere with the use of discretion by officials. Whether the official has exercised discretion within the prescribed limits is, on the other hand, a question of law and thus under the purview of the guardians. A discretionary decision—even though not exceeding the stated limits—which has evidently been influenced by considerations not recognized as valid by law, may also be investigated by the guardians. The author ventures to add that the guardians may intervene even when a lawful use of discretion has led to a clearly inequitable result or to unnecessary hardship on the individual concerned. Compared with their Swedish and Danish counterparts, the Finnish guardians of the law are undoubtedly more reluctant to concern themselves with questions that are not clearly legal, and probably view even their legal powers in this respect as being more limited.⁸

⁷ In Finland, the members of parliament do not perform the kind of constituency work that is common in some other countries. In the activity of the Ombudsman, only about one per cent of all cases are transferred to him by members of parliament. In the Chancellor's office, roughly 2 to 3 per cent of cases are complaints which were first directed to a high official, usually the Prime Minister, who then transferred them to the Chancellor

⁸ As regards questions of "good administration," the legalistic tradition in Finnish public life has also influenced the laws covering the duties of the civil servants. Thus, the Crimi-

Prosecution

If the guardian finds that an official, in the performance of his duties, has, in all probability, proceeded contrary to the law, he can prosecute the culprit or order a public prosecutor to bring the action. In such a case, the guardian is duty-bound first to give the official an opportunity to justify himself. The prosecution usually, but not always, results in the punishment of the accused. In both offices, the trend, in recent times, has been toward resorting to less drastic reactions.

Disciplinary actions

The administrative agencies generally have regulations according to which an official may be given a disciplinary punishment as an internal matter. There is a prosecuting official in the agency itself. If the guardian finds the offense too serious for milder action, but not serious enough to give cause for legal action, he may order disciplinary action against the offender. The trend, however, is away from this type of action.

Reminder

A reminder informs the offending official or agency concerning how and in what manner the action in question is at fault. Created and developed in actual practice, and at present formally provided for only in the "Instructions" of the Chancellor of Justice, the reminder has become perhaps the single

nal Code includes among minor malfeasances in office even errors caused by negligence, imprudence, carelessness, lack of understanding, or lack of skill. This tendency in the law implies that a question regarding an official's behavior is, to a great degree, also a legal question, and also explains, in part, both the number of prosecutions and the legalistic verbiage in the texts of the guardians' decisions.

most effective type of action adopted by the guardians. The main arguments and reasons for using a reminder are: (1) The formally sanctioned reactions are often awkward and disproportionate to the offense concerned, while the reminder leaves more room for variation according to the case and is quicker and less apt to antagonize the official being disciplined; (2) since administrative decision-making is growing ever more complicated and officials are accordingly less adequately responsible for the results of their decisions, it is often more realistic to address a critical opinion to the agency than to single out a certain official as formally responsible and subject to prosecution; (3) the grave cases are dealt with by the proper law-enforcement officers and do not usually reach the guardians; thus, in most cases, the legal or disciplinary actions initiated by them would lead only to a mild punishment, the mildest being simply an admonition. The case will be judged differently if injury has been caused to an individual or if there is reason to believe that the official concerned will not heed an opinion of the guardian, which is not formally binding.

In the reminder, the statement of the fault may vary in tone and sharpness; it may stand alone as a mere expression of the guardian's opinion or it may be accompanied by an admonition to the official to proceed in a given way in similar cases in future. The reminded official is formally free to ignore the advice; but a departure from it which is brought to the guardian's attention is likely to lead to a prosecution, and, in practice, the officials in the whole administrative branch in question follow the advice in such a reminder closely. This broader influence is facilitated by the guardian's bringing his opinion to the attention of the culprit's superior, who then informs other officials concerned with the same question.

Proposals to reopen a case

Within limits provided in the law, a legally valid sentence or decision can be revoked and the case reopened by the Supreme Court or Supreme Administrative Court. The guardians may submit reopening proposals to the proper court. The applicant for reopening a case is always free to turn directly to the proper court, and the guardians usually do not take the trouble if they have reason to believe that the high court will not reopen the case. In the same way, the guardians may also propose to the same courts that the applicant be restored a procedural time-limit which had been missed through no fault of his own.

Proposals for improvements

The instructions of both guardians contain provisions according to which they are to propose, either in the annual reports or in special messages, improvements in existing legal rules. This is the case if they find flaws, obscurities, or contradictions in the laws and regulations, especially if these have caused differing interpretations or other inconveniences in actual practice. As the offices of the guardians are not set up to conduct more general research, the proposals only rarely include drafts for new provisions in the law.

Other actions

The great bulk of the complaints pertain to situations where the complaint proves unfounded. In these cases, an explanation may be made to the complainant by the guardian; explanatory notes may be sent from the staff members; in very rare cases where the letters indicate mental disturbance or continuing querulousness, they may be filed away in the office without further

measures. To receive an explanation or the statement that nothing legally wrong has occurred is of importance to many complainants who misunderstand or mistrust the officials they have encountered *within* the administration. However, in general, the Finnish guardians probably do not put as much emphasis on explaining matters as do their Scandinavian counterparts. If the action complained against can still be corrected by the agency itself, more punitive measures by the guardian may become unnecessary as the agency, being advised about the preliminary attitude of the guardian, often undertakes to correct the situation itself.

PUBLICITY

The offices of the guardians are under the same rules regarding the publicity of documents as are the public agencies in general. The representatives of the mass media only rarely visit the offices specifically because of a pending case. The final decisions are, as a rule, not circulated to the press, but they are made available in the office. In cases of wider interest, the guardians communicate the decision to the press after it has been given to the complainant. In general, Finland's guardians have not received as much attention in their country's mass media as have the Swedish and Danish Ombudsmen in their nations' mass media. According to the constitution, the Chancellor of Justice delivers an annual report on his activities to both the President and the parliament, and the Ombudsman, to the parliament. The reports do not give the individual decisions much publicity among the public at large. To be sure, the reports are distributed to all significant public agencies and courts of law, and they thus help to improve and unify the actual practices of the officials. However, the reports are brief, and the

authorities have paid only sporadic attention to them.⁹ For the parliament and its members, the reports serve as one means of gaining information regarding the enforcement of laws in general.¹⁰ The reports do not usually receive much attention in the Constitutional Committee of the parliament, to which they are first referred, or at the plenary session of parliament, which usually adopts the statement of the Committee. The guardians always have the right to speak, and even the privilege of speaking at plenary sessions, and they are thus able to respond to statements about their reports. This right has, however, been exercised only very rarely.

THE WORK-LOAD

The figures below are taken from the ten annual reports covering the years 1956-1965. The first figures are for the year 1965, and after them, in parentheses, are the corresponding averages for the five years 1961-1965 and the ten years 1956-1965.¹¹

⁹ The Chancellor devotes about 50 pages to the reporting of actual cases, and the Ombudsman about 80 pages. For the year 1966, 1,100 copies of the Chancellor's report, and 2,295 copies of the Ombudsman's report were printed. Copies of the Chancellor's reports are sent to ministries, central administrative boards, provincial governments, courts of law, and provincial and city prosecutors. The Ombudsman's mailing list includes, in addition, rural prosecutors and police chiefs, city police departments, penitentiaries, and certain types of other institutions of detention, as well as certain military authorities.

¹⁰ The Ombudsman has the additional duty of stating in his annual report the decisions of the parliament upon which the government has not yet acted. This duty does not engage much of the time of the Ombudsman, but it adds a considerable clerical burden to the office, and could probably be handled more appropriately by some other office, as, for example, the Central Administrative Office of the parliament.

¹¹ As the guardians have different duties, and as their data are not uniformly itemized,

The Ombudsman received 878 (915; 833) complaints, and 109 (111; 105) complaints were referred to him by the Chancellor of Justice. Cases taken up on his own initiative together with "others" (only a few a year) numbered 104 (102; 71), and pending on January 1 were 245 (270; 168) cases. The actions taken were divided as follows: 6 (9; 10) prosecutions, 0 (0.2; 0.7) disciplinary actions, 23 (27; 24) reminders, 8 (19; 18) proposals or referments to another authority, 961 (975; 886) cases which did not lead to any action,¹² and 89 (79; 53) inspections. The complaints handled during the year concerned reopening cases, restoring procedural time-periods, and proceedings in courts in general, 272 (313; 317); penal institutions, 288 (280; 247); welfare institutions and welfare authorities in general, 90 (84; 76); police and prosecuting authorities, 97 (99; 89); military authorities, 19 (19; 16); and other authorities, actions by private individuals, and other matters, 219 (213; 176).

The Chancellor of Justice received 614 (518; 505) complaints, and other authorities sent to him 57 (63; 87) cases. On his own initiative he took up 352 (272; 205) cases. Of all these cases, 33 (38; 39) led to prosecution; 58 (49; 43) led to a disciplinary measure or a reminder; 77 (98; 112) led to a proposal or an advice to the authority concerned; and 855 (668; 607) did not lead to any action. Of the complaints,

the statistics in their reports have to be interpreted separately. The Chancellor's role as head of the public prosecutors and legal adviser to the government is not considered here. The Chancellor does not include in his reports those cases which he has referred to the Ombudsman.

¹² These figures include cases where the matter was pending in another authority or did not belong to the Ombudsman's jurisdiction or where the official concerned had changed his decision after the Ombudsman had initiated an investigation.

593 (494; 476) did not result in any action.¹³

Of the complaints decided upon by the Chancellor, 6.0 (5.6; 5.8) per cent were found to merit some kind of action. The Ombudsman found that 5.9 (7.8; 8.5) per cent of the complaints merited action.¹⁴

CONCLUSION

When the office of the Ombudsman was created nearly fifty years ago, the Chancellor of Justice was already a tradition over a hundred years old. The general public viewed the Chancellor as the guardian of legality, largely because of the role which that office played during the period of oppression under Russian rule. Among the ordinary people, the Chancellor probably still ranks as the primary guardian of law. Except for the restive years of the early 1930's and immediately after World War II, there have been no significant criticisms directed against the incumbents, and, to the author's knowledge, no attacks on the institutions as such. During the last few years, some people have criticized the guardians for allegedly hiding under the cloak of a narrow legalism—not really championing the individual's rights and freedoms. Most of the critics have borrowed heavily from a foreign student of the institutions.¹⁵

How one evaluates these institutions

¹³ In "no action" cases are included those in which the matter was investigated and the file was closed without further action and cases where the matter was pending in an authority or transferred to the proper agency by the Chancellor, as well as cases where the authority revised its decision while the case was being considered by the Chancellor.

¹⁴ Included here are also cases where the official concerned made corrections after the guardian had started his investigation.

¹⁵ Gellhorn, *op. cit.*

ultimately depends on whether one expects the guardians to be a cure-all—to effectuate one's own social-value aspirations—or to be merely one of the means to control and improve present-day administration. Whatever the theoretical potential of a control institution, its functions, in actuality, not in a vacuum but in interdependence with other factors shaping the society. The absence of criticism may indicate that the institutions, in general, fulfill the expectations of the populace in Finland. But the attention which the guardians have received in the Finnish mass media has been mild and sporadic. The Finnish public has probably been less aware of the potentiality and the limitations of the institutions than the Swedish and Danish public.

Both guardians, indeed, have rarely had occasion to expound an opinion the implications of which would extend beyond the details of formal legality. There is an unavoidable dependence by the guardians upon the political and social climate of the country. But, in the author's view, the potential of these institutions to develop the rights and freedoms of citizens has not been used to its full extent. They might play a more active role in taking the feedback from the public into account. This is especially relevant for the Ombudsman, who does not have the distracting burdens of the Chancellor of Justice as the highest prosecutor and an adviser to the government. This plea for more "Ombudsman activism" does not contradict the view that, in the framework of the Finnish society, the guardians have done a good job and have undoubtedly exerted a significant positive influence on public administration.

The Norwegian Ombudsmen for Civil and Military Affairs

By SVERRE THUNE

ABSTRACT: Since 1952, Norway has had an Ombudsman for Military Affairs who, assisted by a council of six members, deals with complaints against military authorities and supervises the treatment of military personnel. In 1963, the Ombudsman for Civil Affairs began to function. The reason for the establishment of these Ombudsmen was the steadily increasing influence of public administration on the citizen's rights and obligations. The judiciary's control of administration is time-consuming and costly, and it was considered desirable to let the "little man" have a control institution to which he could apply and which could simply and inexpensively examine his complaint. The Ombudsman must keep himself informed of conditions in administration, and can thus also take up matters on his own initiative. The Military Ombudsman handles about 350 complaints per year; the Civilian Ombudsman, about 1,000 complaints. Of the complaints which are taken up for examination by the Civilian Ombudsman, about 30 per cent are successful. It is generally agreed that the Ombudsmen come up to expectations concerning them, and there is no doubt that the institutions are now firmly established. Co-operation with administration has proceeded smoothly, and although the Ombudsmen cannot alter administrative decisions, nor order the agencies concerned to do so, administrative officials very rarely fail to comply with the Ombudsman's opinion.

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NORWAY's Ombudsman for Civil Affairs¹ was established on June 22, 1962, by the "Act concerning the Storting's Ombudsman for Administration." The first Civilian Ombudsman took office on January 1, 1963. The Storting has issued "Rules for the Storting's Ombudsman," dated November 8, 1962.

The main reasons for the establishment of the institution were the steadily increasing scope of public administration and the desire to establish a control agency to which the individual citizen could apply if he considered himself unjustly treated by public administration.

The Ombudsman's control over administration has an advantage over judicial control in that it is simple, informal, and rapid—and also free of charge for complainants. The Ombudsman cannot change administrative decisions. He is authorized to express his opinion only on matters which come within his province.² He can point out that an error has been committed or that negligence has been shown by an administrative agency or official.³ If, however, the agency or official fails to comply with the Ombudsman's statement, the complainant wishing to pursue the matter must apply to the courts of law. The originators of the institution assumed that administrative officials and agencies would comply with the Ombudsman's statements, and they have, on the whole, done so.

The Norwegian Ombudsman system is related to the systems in other Scan-

dinavian countries, especially to the Danish one. For military affairs, Norway already had had a special Ombudsman, elected by the Storting, before the Civilian Ombudsman was established.⁴ The Danish Ombudsman has a somewhat wider authority than his Norwegian counterpart. He can, for instance, order the prosecuting authority to undertake preliminary investigations or to bring charges before the ordinary courts of law for offenses committed in public service. He can, moreover, order the appointing authority to start disciplinary proceedings.⁵ The Norwegian Ombudsman can only *inform* the prosecuting authority or the appointing authority of his opinion of what should be done with regard to the official concerned.⁶ In practice, however, there is hardly much difference between the two systems.

THE DUTIES OF THE CIVILIAN OMBUDSMAN

The Act concerning the Storting's Ombudsman for the Administration provides in Article 3 that "it is the duty of the Ombudsman as the delegate of the Storting and in the manner stipulated in this Act and in the Rules issued by the Storting, to endeavour to ensure that the public administration does not commit any injustice against any citizen." The term "public administration" comprises in general usage both (central) government administration and municipal administration. It follows, however, from Article 4 of the Act that his duties are limited to the government organs of administration.

His competence is further restricted

¹ Literature on the Norwegian Ombudsman institution is found in Donald C. Rowat (ed.), *The Ombudsman: Citizen's Defender* (Toronto: University of Toronto Press, 1965), pp. 95 *et seq.*; Walter Gellhorn, *Ombudsmen and Others: Citizens' Protectors in Nine Countries* (Cambridge, Mass.: Harvard University Press, 1966), p. 154.

² Norway, Storting, "Act concerning the Storting's Ombudsman for Administration," June 22, 1962, Art. 10, par. 1.

³ *Ibid.*, Art. 10, par. 2.

⁴ See pp. 52-54 of this article for details about the Norwegian Military Ombudsman.

⁵ Denmark, Act. No. 203, September 11, 1954 (concerning an Ombudsman for the Folketing), Art. 9.

⁶ "Act concerning the Storting's Ombudsman for the Administration," *loc. cit.*, Art. 10, par. 2.

in that it does not apply to decisions made by the Cabinet or to the functions of the courts of justice and of the Auditor of Public Accounts. The records of the Cabinet meetings are examined by the Storting each year, and the controlling authority in this respect is thus vested directly in the Storting;⁷ so is the control of the functions of the Auditor of Public Accounts.⁸ The functions of the courts of law are controlled neither by the Ombudsman nor by the Storting.⁹ Although the municipal administration does not come within the Ombudsman's province,¹⁰ he can, nevertheless, deal, to a certain extent, with municipal matters. First, he can handle all administration matters, including municipal ones, which concern deprivation of personal liberty or are related to such deprivation.¹¹ The Ombudsman can, moreover, deal with decisions made by municipal administrative organs "whenever such decision is relevant to the consideration of a case with which he is dealing."¹² Besides, when dealing with an individual case relating to an organ of government administration, the Ombudsman can examine the proceedings in the case before the subordinate organs of administration, including the municipal organs.¹³

A bill has now been submitted to the Storting for an amendment to the Act. If this bill is passed, the municipal ad-

ministration will come almost entirely within the province of the Ombudsman.

The Ombudsman's control is a subsequent control; he does not take up any matter for consideration as long as it is being handled by the administrative agency or official. The administrative right of appeal must also be exercised before any complaint can be lodged with the Ombudsman.¹⁴ The Ombudsman advises the complainants on their rights to appeal to a higher administrative authority. If, however, the complaint concerns the procedure followed in the handling of a case, he can take it up for immediate consideration.

Complaints to the Ombudsman¹⁵ on decisions or matters which are over one year old are prescribed. The prescription runs from the date on which the matter is finally decided, whether at the first level or at the appeal level, in the administration. The prescription does not prevent the Ombudsman from taking up, on his own initiative, a matter which is more than one year old.

Complainants and complaint procedures

Anybody who feels that he has been unjustly treated by public administration has the right to complain to the Ombudsman.¹⁶ This right is enjoyed by both Norwegians and foreigners, and by individual as well as corporate persons.

On one occasion, a municipality complained about a decision made by a government agency,¹⁷ but the Ombuds-

⁷ Norway, *Constitution*, Art. 75 (f). On the other hand, the decisions and conduct of a head of a ministry (Cabinet member) can be brought before the Ombudsman

⁸ *Ibid.*, Art. 75 (k).

⁹ See also pp. 47-48 of this article.

¹⁰ In 1963, the Ombudsman rejected 98 claims concerning municipal matters; in 1964, 71; in 1965, 55; and in 1966, 46 claims.

¹¹ Norway, Storting, "Rules for the Storting's Ombudsman," November 8, 1962, Art. 2, par. 1; "Act concerning the Storting's Ombudsman for the Administration," *loc. cit.*, Art. 4, par. 2.

¹² "Rules for the Storting's Ombudsman," *loc. cit.*, Art. 2, last par.

¹³ *Ibid.*, Art. 3, last par.

¹⁴ "Rules for the Storting's Ombudsman," *loc. cit.*, Art. 5, par. 1.

¹⁵ "Act concerning the Storting's Ombudsman for the Administration," *loc. cit.*, Art. 6; "Rules for the Storting's Ombudsman," *loc. cit.*, Art. 4, par. 3.

¹⁶ "Act concerning the Storting's Ombudsman for the Administration," *loc. cit.*, Art. 6; "Rules for the Storting's Ombudsman," *loc. cit.*, Art. 4.

¹⁷ Norway, Ombudsman for Civil Affairs, Case 190/64.

man rejected the complaint on the grounds that it did not concern the relations between a citizen and a public authority.¹⁸ A municipality can complain of any injustice which the municipality itself has suffered, but purely administrative questions arising between the various organs of administration will normally fall outside the Ombudsman's province.¹⁹

Complaints from one organ of government administration against another will not be accepted. Such complaints would normally involve questions of jurisdiction, and it is not natural for such questions to be decided by the Ombudsman.

A complaint to the Ombudsman must be presented in writing.²⁰ No special form is required; an ordinary letter is sufficient. Anybody who has been deprived of his personal liberty has the right to file a complaint in a sealed letter.²¹

Many people visit the Ombudsman's office to present their complaint either to the Ombudsman personally or to one of his staff. The visitors number between four and five hundred a year. If necessary, the Ombudsman assists in drawing up the complaint.²²

According to the Rules, the complaint must be signed by the complainant.²³ If it is not signed by the person who

¹⁸ Cf. "Act concerning the Storting's Ombudsman for the Administration," *loc. cit.*, Art. 3

¹⁹ In one case (Case 922/65), a complaint lodged by a mountain-area board (municipal agency), against an organ of government administration for slowness in its proceedings, was admitted

²⁰ "Rules for the Storting's Ombudsman," *loc. cit.*, Art. 4.

²¹ "Act concerning the Storting's Ombudsman for the Administration," *loc. cit.*, Art. 6, par. 2.

²² "Rules for the Storting's Ombudsman," *loc. cit.*, Art. 4

²³ *Ibid.* The purpose is to prevent a situation in which anybody could engage in filing complaints on behalf of others.

has suffered the injustice, it is returned with a request for signature, or the complainant is requested to send in a declaration stating that he agrees to the complaint being made. If the complaint is filed by a lawyer, or, for instance, by a trade union of which the complainant is a member, the complainant is not required to sign it. Nor is his signature usually required if the complaint is filed by any member of his immediate family.

It would often be an advantage, especially in more complex cases, if the complainant were represented by counsel. Matters whose significance may not be understood by the complainant himself would more easily come to the Ombudsman's notice.²⁴ Legal aid can be provided free of charge in cases brought before the Ombudsman, and in a major case which was recently closed, the Ombudsman took the initiative to obtain legal aid. This case concerned an enquiry into the conditions at the government's special schools for the feeble-minded.²⁵ In order to make the results of the enquiries as reliable as possible, the Ombudsman decided to apply the procedure followed by the courts of law for the taking of evidence. The Solicitor General appeared on behalf of the schools and the ministry, and the Ombudsman engaged a private attorney to represent the pupils-parents. The Ministry of Justice consented in advance to pay the costs of the legal-aid grant.

A number of cases are taken up each year by the Ombudsman on his own initiative.²⁶ It is usually through the

²⁴ The complaint is sometimes presented by a lawyer, but not often. Another factor is that many complaints are probably drafted by a lawyer, but signed and sent in by the complainant himself.

²⁵ Norway, Ombudsman for Civil Affairs, *Report*, 1967-53, Case 3 E/1967.

²⁶ "Act concerning the Storting's Ombudsman for the Administration," *loc. cit.*, Art. 5.

press and the broadcasting services that he is made aware of circumstances which may call for further enquiry. Besides, he can take up a complaint on his own initiative in cases where the complainant does not have a right of complaint or where the case is prescribed. So far (January 1, 1968), about ninety-two cases have been taken up by the Ombudsman in this way.

Procedure of the Ombudsman and his staff

The Ombudsman's permanent staff comprises, besides the ordinary office personnel, one office manager and three counselors, all lawyers.

When a complaint is received, it is registered and entered in a control book where it is subsequently entered each time it passes through the office in the course of the procedure. The complainant's name is entered in a separate register. The file is inscribed with the complainant's name and address, the date on which the complaint was received, the administrative organ against which the complaint is directed, the ministry under which that organ falls, and the object of the complaint.

The case passes from the registering office to the Ombudsman, who reads all the letters received. The Ombudsman thereafter hands over the cases to the office manager who is authorized to take the preparatory steps.²⁷ He distributes the cases among the counselors, whose functions, however, are not specialized.

About two-thirds of the complaints are rejected, either because the object of the complaint falls outside the province of the Ombudsman or because the complaint is obviously unfounded. If the object of the complaint comes within the Ombudsman's sphere of competence and justifies investigation, the matter is

taken up for consideration, however small and insignificant it may be.

The subsequent procedure may differ from one case to another. Usually, the first step is to study the relevant documents. In order to obtain these documents, it is sufficient for the Ombudsman's office to request them by telephone from the administrative agency concerned. If the examination of the complaint and the documents gives rise to doubt as to whether the administrative agency has made the right decision, the complaint is forwarded to the agency with a request for its opinion. The decision can never be criticized unless the agency has been given an opportunity to defend itself.²⁸ The Ombudsman, when forwarding the complaint, mentions the points of the case which are unclear or give reason to doubt whether the decision is correct. In 1964, opinions from administrative agencies were obtained in 271 cases, while 117 cases were concluded without being submitted to them. In 1965, the figures were 237 and 125, respectively; in 1966, 181 and 134; and in 1967, 161 and 126.

When the case is taken up for investigation, the complainant is promptly notified thereof, and if the proceedings go on for any length of time, he is kept informed of the progress made in the case. The Ombudsman considers it important to keep the complainant up to date, and has also taken up with the government the question of whether the public should not be kept better informed.²⁹ Instructions have now been given by the government that information should be released to the public.

The opinion of the administrative agency or official concerned is submitted to the complainant, and any new points brought up by the complainant may

²⁸ *Ibid.*, Art. 7, par. 2.

²⁷ Cf. "Rules for the Storting's Ombudsman," Art. 13.

²⁹ Norway, Ombudsman for Civil Affairs, *Report*, 1964-70.

then, in turn, be submitted to the agency or official for comment. Also, when forwarding such new points, the Ombudsman will especially point out the aspects of the matter which are considered essential.

The Ombudsman has access to offices and premises of every administrative agency or service which comes within his competence.³⁰ He has no general obligation to visit such premises or carry out inspection. Measures of this kind would be taken primarily in connection with specific complaints or cases that are taken up on his own initiative.³¹ In addition, he can require courts of law to take evidence.³²

When the case has been sufficiently clarified, the staff counselor drafts a statement. If the complaint has not been successful, the statement is addressed to the complainant, with a copy to the administrative organ in question. If the case provides grounds for criticism against, or a recommendation to, the administrative organ, the statement is addressed to the latter, with a copy to the complainant. The draft statement is examined by the office manager, and the statement is finally formulated by the Ombudsman, who must personally decide all matters whether they are rejected or considered on their merits.³³

Relations between Ombudsman and administration

In Norway, the general consensus, including the opinions of administrative

officials, was in favor of establishing the Ombudsman institution.

Under Norway's constitution, which is based on Montesquieu's system of separation of powers, administration is, in principle, sovereign in its area, and should be beyond the reach of parliamentary control. With the introduction of Cabinet responsibility in the 1880's, the situation has, in fact, changed. The government is responsible to the Storting, and the Storting is, in Norway, actually, if not formally, the highest authority in the administrative branch too. This is the reason why the Storting has been able to introduce the system of Ombudsman control of administration without amending the constitution.

This system acts in two ways. First, the Ombudsman ensures that administration does not exercise its powers in an incorrect or unreasonable manner. On the other hand, the Ombudsman's statements support the administration against unjustified complaints and suspicions.

Under Article 7 of the Act, the Ombudsman can "demand the information necessary for the performance of his duties from Government appointees and officials and from any other persons in the service of the Government." The Ombudsman can require the administrative agency or official to produce records and documents. The underlying documents drawn up for internal use in the administrative agency have not been mentioned, and the agency is obliged to produce them only insofar as they contain factual information. Practice in this respect has varied. Some administrative organs automatically enclose the underlying documents, too, whereas others do not. Since the administrative agency, according to the present system, is not obliged to give reasons for its decisions, it would, no doubt, be desirable in certain cases to have the underlying documents, too. It would then be

³⁰ "Act concerning the Storting's Ombudsman for the Administration, *loc cit.*, Art. 8

³¹ In *Report*, 1967-53, Case 3 E/67, the Ombudsman visited a number of special schools for the feeble-minded after these schools had been criticized in public. The Ombudsman has also visited a number of prison institutes

³² "Act concerning the Storting's Ombudsman for the Administration," *loc cit.*, Art. 7, last par

³³ "Rules for the Storting's Ombudsman," *loc cit.*, Art. 13, par. 2.

easier for the Ombudsman to decide whether the agency or official had applied any biased or irrelevant considerations in reaching a decision.⁸⁴

The Ombudsman has no authority to alter administrative decisions. Under Article 10 of the Act, he can only "express his opinion in matters which come within his province." He can point out any errors or negligence on the part of an administrative organ or official. If he comes to the conclusion that a decision must be considered invalid, he can say so; and, if it appears reasonable to him, he can inform the administrative organ in question that compensation should be paid unless a new decision can remedy the situation.

The question whether the Ombudsman should be authorized to test the discretionary decisions of administration has given rise to some controversy. The system established by the Act and the Rules stated, concerning this matter, that the Ombudsman can criticize the decision when it is "clearly unreasonable" or "contrary to proper administrative practice."⁸⁵

Administration has, on the whole, complied with the Ombudsman's recommendations.

The Ombudsman and administration have at all times worked well together.

⁸⁴ Norway's "Act concerning the Handling of Administrative Matters," February 10, 1967, provides in its Article 24 that administration must specify the reasons for decisions, either at its own initiative or upon request. This Act has not yet taken effect, but when it does so, the question of handing over underlying documents for internal use will probably lose much of its importance.

⁸⁵ "Act concerning the Storting's Ombudsman for the Administration," *loc. cit.*, Art. 10, par. 2; "Rules for the Storting's Ombudsman," *loc. cit.*, Art. 9, par. 4. An example was *Report, 1967-13, Case 33/67*, which concerned a complaint lodged by a police official who felt that he had been passed over for promotion. The Ombudsman declared that the complainant had to be considered better qualified than the person who was engaged.

Matters have been handled with reasonable dispatch, and administration has often altered its decisions in the course of complaint proceedings, without manifesting any need to defend its own prestige.

The Ombudsman and the courts of law

Under Article 4, point 2, of the Act, the functions of the courts of law are excluded from the Ombudsman's authority. This is so as regards both the judicial and the administrative functions of the courts. It would infringe on the independence of the courts and would, in any case, necessitate a constitutional amendment, if the Ombudsman were to be given control over the courts' judicial functions.⁸⁶

The courts, however, are administrative organs, too. They are responsible for registering mortgages and other encumbrances on real property, keeping the registers of companies, settling estates, and the like. The courts also have duties of internal administration: fixing the dates for hearing cases, personnel administration, and the like.

In principle, there should be no reason to withhold the administrative functions of the courts from the Ombudsman's control, even though this is, no doubt, more consistent with the wording of the Act.⁸⁷ In some cases, administrative decisions by courts can, following complaint, be reviewed by a ministry. For example, a decision concerning official registration of documents can be brought before the Ministry of Justice; the charging of a stamp tax can be submitted to the Ministry of Finance; and complaints of delays on the part of the courts can be addressed to the Ministry of Justice. The ministry's decision can be the subject of a

⁸⁶ Norway, *Constitution*, Arts. 88, 90

⁸⁷ "Act concerning the Storting's Ombudsman for the Administration," *loc. cit.*, Art. 4, par. 1, point 2.

complaint to the Ombudsman. It may seem to involve a rather artificial distinction that the Ombudsman, while authorized to consider complaints against ministry decisions, is unable to review administrative court decisions. Since these decisions are reviewable by the ministries, the independence of the courts is, in fact, restricted to their judicial functions. This distinction has, nevertheless, been made because it is often difficult to draw the line between the judicial and administrative functions of the courts. For that reason, the Ombudsman has been careful in his dealings with court decisions of an administrative kind.³⁸

A complainant can bring his case before the courts of law if he so desires, even if the Ombudsman has acted on the complaint. In certain cases, especially those concerning doubtful legal questions, this may indeed be necessary, because it is in the courts that the complainant can obtain an enforceable decision. In many cases, the Ombudsman points out the doubtful aspects, and he often emphasizes that the matter pertains, in the last resort, to the courts. In such cases, he recommends that the Ministry of Justice grant legal aid.³⁹

Qualifications for election

The Ombudsman is elected by the Storting for a term of four years, effective from January 1 of the year following the parliamentary election (cf. Article 1, first paragraph, of the Act). He must pass the qualifications required of a Supreme Court Justice, that is, he must be at least thirty years of age and have graduated in law with top

marks.⁴⁰ The aim is to have a jurist of high standing whose opinions, by virtue of his authority, will be respected by administration. Andreas Schei, who has been Ombudsman since the institution was established, was a Supreme Court Justice at the time of his appointment, and had had long experience in public administration besides. The Ombudsman cannot be a member of the Storting (cf. Article 1, second paragraph, of the Act).

If the Ombudsman is prevented from performing the duties of his office because of illness or other circumstances, the Storting may elect a deputy to carry out his duties for the duration of his absence. If he is unable to perform his functions, the Storting must elect a new Ombudsman for the remaining term of office. The same rule applies if the Ombudsman relinquishes his office or the Storting, by a two-thirds majority of the votes cast, removes him (cf. Article 1, second paragraph, of the Act).

The Ombudsman must not hold any public or private appointment or office without the consent of the Storting.⁴¹ His salary and pension are fixed by the Storting (see Article 13 of the Act). They equal the salary and pension of a Supreme Court Justice, plus a personal supplement.

The Ombudsman's staff is appointed by the President of the Storting, and their wages are fixed in the same way as are those of Storting personnel.

The Ombudsman and the Storting

Subject to the provisions of the Act and the Rules, the Ombudsman performs his functions independently of the Storting.⁴² The Rules provide, however

³⁸ See, for example, Norway, Ombudsman for Civil Affairs, Case 283/63, concerning stipulation of fees.

³⁹ See, for example, Norway, Ombudsman for Civil Affairs, *Report*, 1964-9. The question concerned the validity of the dismissal of a prison janitor

⁴⁰ Norway, "Courts Act," August 13, 1915, Art. 54

⁴¹ "Act concerning the Storting's Ombudsman for the Administration," *loc. cit.*, Art. 13, par 2.

⁴² "Act concerning the Storting's Ombudsman for the Administration," *loc. cit.*, Art. 2.

(in Article 5, last paragraph), that in cases which he receives from the Storting or from the Odelsting,⁴³ the Ombudsman must present his opinion to the Storting or Odelsting. The intention of the Storting in establishing this system was that it "could serve to draw clear lines for the Ombudsman's functions wherever they touch on areas which have traditionally been handled by the Odelsting or the Standing Committee on Parliamentary Control or the Storting."⁴⁴

Hitherto, the Ombudsman has not received any requests for an opinion under this provision, and the question of whether to repeal it will be taken up in connection with the forthcoming amendment of the Rules. On the other hand, the Ombudsman often receives complaints from members of the Storting on behalf of persons who have applied to them. In one case, the Judicial Committee of the Storting forwarded a complaint to the Ombudsman for his consideration.

The Ombudsman is the delegate of the Storting (cf. Article 3 of the Act), and obviously he cannot control its functions. Should the Storting take any decision concerning administration, the Ombudsman would be unable to deal with any complaint concerning it.

Besides, the Rules provide (Article 5,

third paragraph) that if the matter giving rise to the complaint has already been considered by the Storting, the Odelsting, or the Standing Committee on Parliamentary Control, the Ombudsman is barred from dealing with the complaint. The Ombudsman at first took the view that if the object of the complaint had previously been taken up in the Storting in an interpellation which had been answered, the matter should be regarded as having already been considered by the Storting under the terms of the Act, for which reason the Ombudsman was barred from dealing with the matter.⁴⁵ The Ombudsman pointed out in his report for 1963 that the question was doubtful and that the Rules should be clarified on this point. In the course of the Storting debate on the report, the view was expressed that the Ombudsman should not be barred from taking up a matter which had been considered in the form of an interpellation unless the Storting had decided the matter on its merits, and that this point should be made clear in the Rules.⁴⁶ This point, too, will be clarified in connection with the forthcoming revision of the Rules.

Each year, the Ombudsman must submit a report of his work to the Storting.⁴⁷ The report must be submitted before April 1 of the following year.⁴⁸ It reviews the various cases which the Ombudsman considers of general interest, describes how they have been handled, and mentions cases where the Ombudsman has found reason to call attention to deficiencies in statutes or administrative regulations.

⁴⁵ See, for instance, Norway, Ombudsman for Civil Affairs, *Report*, 1963-20.

⁴⁶ Norway, Storting, *Records*, S. No. 297 (1963-1964); Norway, Storting, *Debates*, 1964, p. 23.

⁴⁷ "Act concerning the Storting's Ombudsman for the Administration," *loc. cit.*, Art. 12

⁴⁸ "Rules for the Storting's Ombudsman," *loc. cit.*, Art. 14.

⁴³ Norway, *Constitution*, Arts. 73 and 76. Explanatory Note: "After the Storting has been properly constituted, 38 members are elected as members of the Lagting, while the remainder form the Odelsting. All matters relating to new laws or to the amendment of existing laws are taken up first by the Odelsting and then by the Lagting, and failing agreement by those two bodies separately, by the Storting sitting as a whole" (Walter H. Mallory [ed.], *Political Handbook and Atlas of the World: Parliaments, Parties and Press as of January 1, 1967* [New York and Evanston: Harper & Row, for Council on Foreign Relations, Inc., 1967], p. 208).—Ed.

⁴⁴ Norway, Storting, *Records*, S. No. 14 (1962-1963).

The Rules provide (in Article 14, third paragraph) that if the Ombudsman regards a complaint as unfounded, neither the name of the complainant nor that of the official (or administrative agency) shall be mentioned in the report. In practice, names are also not mentioned in those cases where the complaint has been successful. The description of each case must contain the statements which have been made in defense of the administrative organ or official concerned.⁴⁹ If the matter has been followed up, later reports are supplemented with additional information.

A subject index and an index of laws have been prepared: they are supplemented each year and included in their entirety in the report.

The Storting, during its debate on the annual report, has expressed general appreciation of the Ombudsman's work, pointing out that both the public and administration seem to feel general satisfaction with the Ombudsman system. It has also been said that since the Ombudsman system was established, it has become easier for a member of the Storting to take up matters with administrative agencies. Matters which would previously have been rejected out of hand are now accepted for consideration because of the possibility which now exists of complaint to the Ombudsman.⁵⁰

The Ombudsman's first five years

Ever since Norway's Ombudsman institution began, the number of complaints has been somewhat higher than would have been expected on the basis, for example, of the Danish and Swedish Ombudsmen's experiences. In 1963, the Ombudsman in Norway received 1,257 complaints; in 1964, the figure

was 1,060; in 1965, 952; in 1966, 998; and in 1967, 1,089. In addition, the Ombudsman took up, on his own initiative, 18 cases in 1963, 16 cases in 1964, 28 cases in 1965, 16 cases in 1966, and 14 cases in 1967.

Of the complaints received by the Ombudsman, about two-thirds have been rejected, most of them because they failed to come within his competence. Each year, about one hundred complaints are received against the courts of law, about fifty complaints against the municipalities, and about ninety complaints concerning purely private matters. In about 150 cases each year, the complaints have been rejected because the complainants had failed to exhaust the right of administrative appeal. About one hundred cases are rejected each year as unfounded.

One might have thought that the number of complaints falling outside the Ombudsman's competence would decline as the institution and its functions became more widely known. This has not proved to be the case.

The number of cases admitted for consideration on their merits has been from three to four hundred annually, including the cases taken up at the Ombudsman's own initiative. Of these cases, about 250 were unsuccessful, whereas the rest, that is, about 100 cases annually, have been wholly or partially successful. The administration has altered its decision or settled the matter in the course of the complaint proceedings in about fifty cases each year, frequently as a result of the Ombudsman's having pointed out circumstances in the case which he felt were particularly relevant. In between fifty and one hundred cases annually, criticism and/or recommendations have been directed to the administration. The results of the Ombudsman's activities during the period 1963-1966 are shown in the table.

A large group of complaints concerns

⁴⁹ *Ibid*, par. 4.

⁵⁰ Norway, Storting, *Debates*, 1965, p. 3841.

TABLE—NORWEGIAN CIVILIAN OMBUDSMAN'S ACTIVITIES, 1963-1967

Year	TOTAL							SUCCESSFUL CASES			
	Complaints	Own Initiative	Total	Rejected	Admitted for Consideration	Decided	Unsuccessful	Total	Altered-Settled	Criticisms and Recommendations	Compensation or Repayment
1963	1,257	18	1,275	868	402	327	250	77	39	48	2
1964	1,060	16	1,076	708	368	388	270	118	56	62	4
1965	952	28	980	636	344	363	240	123	51	86	7
1966	998	16	1,014	702	312	315	216	99	60	64	11
1967	1,089	14	1,103	810	293	287	208	79	40	53	8
1963 1967	5,356	92	5,448	3,724	1,719	1,680	1,184	496	246	313	32

social security benefits and pensions. Many also complain about employment conditions and wages. Complaints concerning refusals to grant licenses, permits, or concessions are also frequent. There have often been complaints against the prosecuting authority for having failed to prosecute an offense, or for allegedly unsatisfactory investigation on the part of the police. Complaints about police brutality have occurred, but very rarely.

Prison inmates make up a large group of complainants. They accounted, in 1963, for 4.5 per cent of total complaints; and in 1966, for fully 26.2 per cent. In 1967, the complaints decreased to 18.2 per cent. The complaints have concerned the treatment or food they received in prison, or the Prison Director's refusals to grant release on parole. Patients in psychiatric hospitals account for some twenty complaints annually.

In most cases, the complaint is directed against a decision of an administrative agency. Some complainants argue that the laws have been erroneously applied, others that inadequate investigation has caused the decision to be based on errors of fact. As for discretionary decisions, there have been complaints of unequal treatment on unjustifiable grounds.

Of the complaints which are admitted for consideration, about one-fourth relate to administrative procedure, the chief reason for complaint being excessively slow proceedings. In many cases where the complaint is directed against the decision, it is also directed against the procedure which led up to it. Inquiries made by the Ombudsman have revealed that some matters have been mislaid or lost by administrative agencies. The Ombudsman has caused the rules for the government offices to be amended so as to make it easier to ensure that all applications are answered

and all cases decided.⁵¹ Very few complaints are directed against any individual official.

There are, of course, some cantankerous persons among the complainants, but not very many, and they do not really represent any problem for the Ombudsman.

Looking back on the Ombudsman's activities so far, it can safely be said that the institution has filled a need. One indication is the large number of complaints relative to the size of Norway's population of only 3.5 million. Of the 1,719 cases which were admitted for consideration in the first five years, 496—that is, 28.3 per cent—were successful. There is reason to believe, however, that the deterrent effect of the Ombudsman system is at least equally important. The knowledge that an avenue of complaint to the Ombudsman is open is undoubtedly an incentive for administrative officials to perform their functions as conscientiously as possible.

Besides, whether administration is to blame or not, there will always be those who suspect that something is wrong. Here the Ombudsman can act as an impartial agency of investigation, so that administration can be cleared of unjustified suspicions. People will place greater confidence in the Ombudsman's conclusions than in a declaration by the administration itself.

Publication of the Ombudsman's conclusions

The Ombudsman's conclusion is of interest to others besides the complainant and the administrative organ involved in each case. Other people, too, who have been exposed to similar treatment, sometimes also other admin-

istrative organs, may be interested in the contents of the statement. These conclusions by the Ombudsman should represent a valuable contribution to Norwegian administrative law. It is therefore important that they be published.

The "Rules for the Storting's Ombudsman" provide, in Article 12, that the Ombudsman shall decide, at his own discretion, whether, and in what form, he should inform the public of his action in each case.

The public is first informed of the Ombudsman's conclusions through the annual report to the Storting. These reports are printed in the form of Storting documents and distributed to the various administrative agencies and to the journals of the societies of government officials. One copy of the report is sent to the Norwegian News Agency (NTB), which informs the press. Besides, the report can be bought by anybody in the ordinary bookstores.

Matters of considerable basic interest, or matters which have attracted special attention, are usually reported directly to the press after the conclusion has been reached. On request, the press will also be informed of matters which are presumably of general interest. However, the press has not been very active in soliciting such information.

THE OMBUDSMAN FOR MILITARY AFFAIRS⁵²

The office of the Ombudsman for Military Affairs was established by a Storting Resolution of April 21, 1952. The Ombudsman's functions are governed by the "Rules for the Military Ombudsman Board," of April 21, 1952. The foregoing description of the procedure followed in the office of the

⁵¹ Norway, Ombudsman for Civil Affairs, *Report*, 1964-70; and *Ibid.*, *Report*, 1967 (supplementary information).

⁵² See A. Ruud, "The Military Ombudsman and His Board," in D. C. Rowat (ed.), *The Ombudsman: Citizen's Defender*, loc. cit., p. 111.

Storting's Ombudsman for the Administration applies, on the whole, also to the Military Ombudsman.

The Military Ombudsman is elected by the Storting⁵³ for a four-year term, together with a Board having the same term of service.

The Board was established for the purpose of "assisting conscripted personnel in all branches of the armed forces."⁵⁴ The object of the Board is to deal with questions brought by servicemen or their elected representatives concerning the conditions under which they serve and the way in which their period of service is utilized.⁵⁵ Examples are the economic and social benefits to which servicemen are entitled and questions concerning educational and welfare work, operation of canteens, pensions, equipment, clothing, food, and lodging. The Ombudsman's functions require him to pay annual visits to military camps all over the country in order to study personnel conditions. To assist him in the exercise of these functions, an Ombudsman Board of seven members⁵⁶ was established.

Under Article 3 (b) of the Rules, the Ombudsman also deals with applications from officials employed in the military establishment "except when they must be forwarded through normal service channels as provided elsewhere."

Complaints from defense officials are,

⁵³ The Ministry of Defense considered that the Ombudsman should be engaged by the King and should be placed under the Minister of Defense. The Military Committee of the Storting decided, however, that he would have a more free and independent position and authority if he were appointed by the Storting (Norway, Storting, *Records*, S No 68/1951).

⁵⁴ Norway, Storting, "Rules for the Military Ombudsman Board," April 21, 1952, Art 1; Norway, Storting, *Records*, S N 56/1952

⁵⁵ "Rules for the Military Ombudsman Board," *loc cit*, Art. 3 (a)

⁵⁶ Originally, there were only five members on the board. The number was increased in 1956

on the whole, similar to those received from other public officials. They often concern questions of employment, wages, and promotion. Neither the Act nor the Rules for the Storting's Ombudsman for the Administration specify at which points the competence of the Civilian Ombudsman ceases and that of the Military Ombudsman begins. But it has been clear in practice that the Civilian Ombudsman should not take up matters which pertain to the Military Ombudsman, under the latter's rules. Nor do the "Rules for the Military Ombudsman" draw any clear borderline between his functions and those of the Civilian Ombudsman. Doubtful matters are settled jointly by the two Ombudsmen. It has been established that the Military Ombudsman will deal only with such matters as are typically military or arise from rules or provisions which pertain specifically to the armed forces.

Applications to the Military Ombudsman, under Article 3 (a) and (b) of the Rules (as mentioned above), are decided by the Ombudsman without being submitted to the Board, unless the matter concerns a question of principle or is of public interest.⁵⁷

The cases which are to be considered by the Board are prepared by the Ombudsman. Although, under the Rules, the Board apparently has the higher authority, most of the cases are actually settled by the Ombudsman. Members of the Board undertake inspection tours together with the Ombudsman and participate in deciding the most important cases. Besides, they second the proposals for improvements which are submitted in the annual report to the Storting.⁵⁸

The Ombudsman, or the members of the Board, individually or jointly, can

⁵⁷ "Rules for the Military Ombudsman Board," *loc. cit.*, Art. 5, par 2

⁵⁸ Ruud, *loc cit.*, p 116.

require any case to be taken up for discussion.⁵⁹ Moreover, the Storting, the Storting Military Committee, the Minister of Defense, or the Civil Defense Board can submit matters for consideration and recommendation.⁶⁰

Each year, the Ombudsman Board files a report with the Storting, sending a copy to the Ministry of Defense.⁶¹

The Military Ombudsman handles

⁵⁹ "Rules for the Military Ombudsman Board," *loc. cit.*, Art. 5, par. 1.

⁶⁰ *Ibid.*, Art. 5, par. 2.

⁶¹ *Ibid.*, Art. 6.

between three and four hundred cases annually. Most of them refer to questions of conscription, exemption, or postponement of military service. Disciplinary and criminal cases also account for a large number of the complaints.⁶²

⁶² A Storting resolution, November 23, 1956, established an Ombudsman Board for Conscientious Objectors Ordered to Perform Civilian Service, for the purpose of safeguarding the human rights of these conscripts. This board is identical with the Military Ombudsman Board. The Military Ombudsman is also the Ombudsman for Conscripted Civilian Workers.

The Danish Ombudsman

By HENRY J. ABRAHAM

ABSTRACT: On every conceivable count, Denmark's Ombudsman institution has proved itself to be an unqualified success. In large measure, this has been due to the superb and sagacious performance of the first Ombudsman, who is still the incumbent of the office, and who has succeeded in establishing a thoroughly wholesome and sympathetic climate for both the office and the institution. He has charted a conservative course that has made the Ombudsman entirely palatable to all official and lay segments of Denmark's homogeneous community, including its perceptive and influential press. The Danish Ombudsman's authority extends to every facet of public life except the judiciary (and certain aspects of municipal government). To date, every complaint lodged with the Ombudsman not only has been adjudicated, but has been adjudicated promptly, courteously, and efficaciously. Approximately 90 per cent of all cases are dismissed after due consideration, with the remaining 10 per cent treated on their merits. The specific recommendations of the Ombudsman have been accepted in each case to date—a tribute to Professor Stephan Hurwitz and his small, dedicated staff. The Danish institution of the Ombudsman has thus, deservedly, become a model for a host of related schemes throughout the free world.

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THE Danish constitution of 1953 mandated its unicameral parliament (the Folketing) to appoint one or two individuals outside its own ranks "to control the civil and military administration of the State." On June 11, 1954, the Folketing accordingly created the institution of the "Folketingets Ombudsmand" (Parliamentary Commissioner).¹ Eschewing plans for a multiple office, the Folketing determined to have only one person fill the title and position, but it provided for a small staff of lawyers and clerks to assist him. It is one of the very considerable measures of the institution's success that after a dozen or so years of its existence, its staff (as of the end of 1967) still consists of merely seven attorneys and five clerical employees—a manifestation of anti-Parkinsonianism unheard of in the annals of the United States bureaucracy, to give one example!

JURISDICTION

The enabling statute charged the Ombudsman to "act to increase the guarantees for the lawful conduct of the government's civil and military administration." He was given jurisdiction over all ministers, civil servants, and "all other persons acting in the service of the State," except those engaged in judicial administration. Expressly exempt initially were the municipal (local) authorities, but an amendment in 1962 extended the Ombudsman's jurisdiction to them, too, in those instances in which the actions of the local authorities are covered by a law providing for administrative appeal to higher-level authorities. In effect, then, the Ombudsman is now empowered to deal with alleged infractions on and by

virtually every level of governmental authority, the judiciary (and, of course, the legislature) excluded. This range is thus both greater and lesser than that of the Ombudsmen² in neighboring Sweden, whose jurisdiction *does* extend to the judiciary but *does not* reach out to members of the Cabinet. There is no reason to believe that the Danish judiciary will be included in the near future.

The Folketing made statutorily certain that the Ombudsman could not be one of its own members; that he would be a graduate in law; that he would be barred from any other concurrent public or private employment; that his salary would equal but not exceed that of the Justices of Denmark's Supreme Court; and that he would have to be elected, or re-elected, after every general parliamentary election.

"Folketinget"³ further provided that "Ombudsmanden"⁴ would report to a special seventeen-member parliamentary committee, chaired by the Speaker himself, on which all parliamentary political parties—usually five or six—are represented. But it must be understood that the Ombudsman operates independently of the Folketing, subject only to its general rules. Every summer, he submits an annual report to parliament, a sizable blue-paper-backed volume, entitled *Folketingets ombudsmands beretning for aaret* — ("The Parliamentary Commissioner's Report for the Year —"). Eagerly awaited by laymen as well as professionals, it is a detailed statistical and narrative analysis of his activities during the inevitably busy preceding year.

¹ There were two until late in 1967, the J.O. (Justitieombudsman) for civilian and the M.O. (Militieombudsman) for military matters. At that time, a bill was introduced to provide instead for three "general" Ombudsmen, who would divide all tasks. (The Swedish spelling omits the "d" at the end.)

² The "et" here connotes "the" in Danish.

⁴ The "en" here connotes "the" in Danish.

¹ Literally, the Danish term "Ombudsmand" derives from a contraction of *om* = "about" or "round" + *bud* = "civic duty" + *mand* = man. (The "d" is usually dropped in the English translation.)

POWERS AND FUNCTIONS

It is any executive administrative "mal-, mis-, or non-feasance" that thus falls under the Ombudsman's jurisdictional umbrella, either because a complaint has been lodged with his office or because he has begun the action on his own initiative. By far the largest number of "cases"⁵ fall into the former category; indeed, only rarely does the Ombudsman take the initiative (to date, in only .01 per cent of all cases). He is kept amply busy by the complaints that reach him from the public (most of which, incidentally, are brought against a unit of government—a department, agency, or bureau—rather than against an individual). In the words of the 1954 statute, the Ombudsman is "to see that no person within the scope of his activities pursues unlawful objects, makes arbitrary and unreasonable decisions, or is in any way guilty of mistake or negligence in the performance of his duties."

To carry out this not inconsiderable task, the Ombudsman is authorized to inspect and examine, with the aid of subpoena powers, any and all activities and documents, and to question any persons, to the extent that he deems essential, in the pursuit of his quest for the redress of governmental aberrations, as these come to his attention. But it must be clearly understood that his power does *not* include that of direct reversal of an action complained of; nor that of penalizing an offender; nor that of prosecuting in court a case based upon a complaint. Nor, for that matter, is an administrative unit or an administrator *ipso facto* obliged legally to follow the Ombudsman's recommendation, advice, or suggestion—short of a direct order by the appropriate executive or

judicial authority. The Ombudsman is, after all, neither prosecutor nor court: in a very real sense, his overriding power is, like that of the Supreme Court of the United States, the power to persuade; as is true of that tribunal's position, purse and sword are in other hands—those of the legislature and the Executive, respectively.

However, in the event of a noncompliance with a "suggestion," an "observation," or the "advice" of the Ombudsman, in response to the exigencies of a case he has adjudicated—a reaction unheard of, to date, on the part of *any* affected office or individual—at least three courses of action are then at the disposal of Denmark's Ombudsman.

(1) In the instance of a simple infraction or misconduct by a civil servant, he may "instruct"⁶ that appropriate disciplinary action be taken by that official's superiors.

(2) If a civil or criminal offense has been committed by a present or former minister, the Ombudsman may submit a recommendation for action to the Folketing.

(3) He may "instruct"⁷ the public prosecutor to institute appropriate court action in the instance of a criminal offense by an official below the ministerial level.

Yet the practically nonexistent record of invocation of the above tools is happy proof of one of the most significant and exhilarating facts of life of Denmark's Ombudsman: his publicly pronounced opinion on, or advice in, a matter within his jurisdictional competence is, almost inevitably, sufficient to bring about immediate compliance.

Armed with his power of criticism and exposure under Section 9 of the Ombudsman statute, and consistently supported and encouraged by all segments

⁵ These are not, of course, "cases" in the same sense of the "case or controversy" extant in the Anglo-Saxon adversary process.

⁶ The term used in the parliamentary regulations

⁷ *Ibid.*

of the press, he has used his authority effectively, persuasively, and sensibly to obtain acquiescence in whatever corrective action may have been indicated. This remarkable success has been due far more to the individual who (as of the end of 1967) has been Denmark's only Ombudsman, Professor Stephan Hurwitz, than to the office itself (of which phenomenon much more will be said subsequently).

THE RECORD: PROCEDURE AND WORK-LOAD

As a rule, the Ombudsman's task commences with the ubiquitous "complaint," which may be lodged by "anyone at all" with a personal "interest" in the matter at issue. The sole *caveat* imposed by the Ombudsman is that this "interest" be real, by virtue of at least some degree of direct, personal involvement. Under the rubric of "anyone at all" may fall private citizens; civil servants on any level (who need not go through official "channels" but who may address the Ombudsman directly by letter in a sealed envelope); soldiers and sailors; and inmates of prisons and corrective institutions.⁸

All such complaints must be submitted in writing, accompanied by specific evidence, and must bear the complainants' full name and address. Neither fees nor lawyers are involved. An anonymous complaint is rejected unless its author manages to convince the Ombudsman that, notwithstanding its anonymity, its nature is such as to demand his urgent attention. All available administrative appellate remedies must have been exhausted on the pertinent governmental levels available below

⁸ The only serious criticism of the Ombudsman which I encountered during a year's work and residence in Denmark (Aarhus and Copenhagen) was that of governors of the state prisons, who objected vehemently to the procedure enabling inmates to complain to him over their heads.

ere the Ombudsman will entertain a complaint,⁹ and there is a one-year limit between the occurrence of the alleged grievance and the aggrieved's formal complaint. There is no appeal from the Ombudsman's action on the complaint. But, whatever his decision, the Ombudsman will notify the complainant and the government agency or official involved of all pertinent facts, of his opinion, and of his decision—having previously called for, painstakingly examined, and acted upon all relevant records in the matter. The procedure may, and often does, involve personal, albeit rather informal, interviews in the Ombudsman's office with all parties concerned. Both enlightenedly characteristic of, and crucial to, a basic comprehension of the Ombudsman institution and the role played by its incumbent is the wording of the sign found on the door of the Ombudsman's quarters in the Christiansborg governmental complex of Copenhagen, the Danish capital: "Folketingets Ombudsmand: Døren er aaben." "Døren er aaben" means "the door is open"—and that it is, literally as well as figura-

⁹ These remedies include (1) the "administrative appeal" and (2) a type of "judicial review." The former refers to the general principle of Danish law—applicable in the absence of any express provision—that an appeal may be taken to a higher authority from any administrative decision at a lower level. The ultimate level of appeal here is the Cabinet minister. (Since the end of World War II, certain special administrative appellate agencies have been established in selected departments.) The second remedy sees the exercise of judicial review by ordinary courts over administrative actions, roughly as in American administrative law. Any citizen with standing to sue may thus bring an action in court against the government for annulment, modification, or damage payment. But the Danish courts' power of judicial review is limited to a review of the legality of an administrative act—not whether it was exercised "soundly," "adequately," or "discreetly."—See Bent Christensen, "The Danish Ombudsman," 109 *University of Pennsylvania Law Review* (June 1961), p. 1100.

TABLE 1—THE DANISH OMBUDSMAN: COMPLAINTS AND THEIR DISPOSITION
(1955–1966)^b

YEAR	TOTAL COMPLAINTS	OMBUDSMAN'S INITIATIVE	DISMISSED AFTER SUMMARY INVESTIGATION	CRITICISM	RECOMMENDATIONS
1955 ^a	565	4	250	25	14
1956	869	4	431	30	15
1957	1,028	4	645	50	31
1958	1,101	2	803	50	17
1959	873	2	692	39	18
1960	1,100	10	891	49	12
1961	1,065	2	891	48	16
1962	1,080	6	928	36	14
1963	1,130	23	973	53	10
1964	1,370	21	1,200	60	13
1965	1,146	18	778	26	10
1966	1,106	11	762	22	14

^a The Ombudsman's calendar runs from June 1 to May 31 of every year.

^b Source: Letter to author from Ombudsman Stephan Hurwitz, dated August 18, 1967.

tively. It explains the institution's success to a significant degree; for "døren er aaben," indeed, "for enhver dansker" (for every Dane).

The Ombudsman's scope and range of authority may be illustrated by an enumeration of the categories that are most frequently invoked by complainants: (1) the qualification of an official in the decision-making process; (2) bias on the part of an official; (3) incorrect or incomplete available data resulting in harm to the petitioner; (4) failure of an official to specify a reason (or reasons) for a decision; (5) undue delay in the administrative process; (6) arbitrary, unreasonable, or capricious procedure; (7) rudeness or other untoward official behavior; (8) wilful official negligence; (9) any other official act of mal-, mis-, or non-feasance in office.

As Table 1 demonstrates, since 1957 (two years after the Ombudsman began to function), complaints received by his office have remained above one thousand, except for the year 1959, when they totalled only 873. Normally, circa 80 per cent of the cases received are dismissed after summary investigation, and 20 per cent are considered on their

merits, accompanied by a full investigation. Of those investigated, up to 15 per cent are also dismissed eventually, with the remaining ones resulting in formal "criticism" by the Ombudsman, approximately half of them clothed with his specific "recommendations," which are regarded as more binding. Tables 2 and 3 illustrate the Ombudsman's work-load in two typical years (1964–1965 and 1966–1967), the former itemizing the disposition of the 1,200 dismissals among the 1,370 complaints presented; and the latter, the nature of the 170 cases which were considered on their full merits. Of the 343 complaints listed in Table 3, 205 were lodged against ministries, 20 against police and prosecuting authorities, 106 against other state authorities, and 12 against municipal authorities.

When a complaint reaches the Ombudsman's office, it is at once numbered and registered and then immediately passed on to the Ombudsman himself. He peruses it, takes notes on it, and then turns it over to his Bureau Chief, Povl Hansen, who follows a similar procedure, and then gives it to one of the lawyers in the office. They are respon-

TABLE 2—DISPOSITION OF COMPLAINTS
(1964-1965)*

COMPLAINTS	NUMBER
Total registered	1,370
Considered on merits and fully investigated	170
Dismissed	1,200
Reason	
Filed after 1 year limit	68
Outside of Ombudsman's jurisdiction	394
Administrative remedies not exhausted	240
Anonymous or meaningless	38
No basis for complaint or subject matter was trivial though within Ombudsman's jurisdiction	281
Inquiry rather than complaint	146
Withdrawn by complainant	32
Initialed by Ombudsman and then dropped without action	1
	1,200

* Source: Denmark, *Folketingets Ombudsmands beretning for aaret 1964* (Copenhagen, 1965)

sible for investigating a complaint once the Ombudsman has determined to go ahead. He is subsequently briefed by

TABLE 3—NATURE OF ISSUES INVOLVED IN
CASES CONSIDERED ON MERITS (1966-1967)*

TYPE OF COMPLAINT	NUMBER
General questions	33
Decisions (complaints of decisions of state officials)	203
Case-handling (complaints of faulty administrative procedures)	34
Delays (complaints of administrative slowness)	46
Behavior (complaints of negligence, rudeness, conduct, etc.)	9
Civil Service (complaints of the civil service over wages, pensions, appointments)	18
Total	343

* Source: Hurwitz to author, *loc. cit.*

them—and, not infrequently, he personally completes an investigation. Not only is *every* complainant fully apprised of the disposition of his case, but, except in complaints that are accorded full-fledged investigation on their merits, he may expect action within two weeks after his complaint has been noted. It is the Ombudsman himself who always renders the final decision in a case—his assistants are verily just that. At least, this has been true of the remarkable man who became Denmark's first Ombudsman.

THE MAN

That Denmark's institution of the Ombudsman has been a universally acclaimed success; that it has been regarded with respect in every corner of the globe; that it has been copied by a number of national, state, and local jurisdictions; that it has been enormously popular throughout Denmark; and that it has had a—to date—undiminished laudatory and supportive press is indubitably due to its first Ombudsman, who is still the incumbent—Professor Stephan Hurwitz. As a highly regarded, renowned, accomplished scholar and public servant, he left his Chair in Criminal Law at the University of Copenhagen upon his unanimous election by the Folketing in 1955—a choice in which all parliamentary factions concurred, from the Conservatives on the Right to the Communists on the Left. He had made it absolutely clear that he would accept the post only if he were selected without dissent—and this has been the case on each of the occasions (four) of his re-election. Possessed of commendable tact, poise, intelligence, perceptiveness, and diplomatic *savoir faire*, he fashioned—and has continued to fashion—the office with deliberate caution and conservatism (although his personal political *Weltanschauung* is not

necessarily cast in the conservative mold). Professor Hurwitz (he still holds and is addressed by that honored—at least in Europe—title), from his first day in office on, accorded to what was, after all, a brand new institution for Denmark, the tone of dignified yet tough accomplishment that has won for it, and him, the very kind of acceptance, confidence, prestige, and acclaim that are obviously indispensable to its successful function. Moreover, not only has he adhered to the “Døren er aaben” motto without fail, but that door in his office above one of the archways of Christiansborg’s “Folketingets gaard” (Parliament’s Yard) has also always been open to inquiring private as well as public officials from all over the world (with whom he is able to con-

verse in a number of languages). He has lectured with professional aplomb and expertise from Europe to Australasia, leaving a host of new devotees to the Ombudsman institution in his wake (for example, in Norway, Britain, the Philippines, and New Zealand).

In short, his performance has been superb. He has been the Ombudsman *par excellence*, and the office of the Ombudsman has been Stephan Hurwitz. Indeed, if there is any question about the future of this Danish institution at all, it is that he may have set a standard impossible for anyone else to meet: that, in effect, he may have been *too* successful. It would be irony supreme were the office to falter after his departure because of the tradition of excellence that he established.

The Ombudsman and Related Institutions in Australia and New Zealand

By GEOFFREY SAWER

ABSTRACT: An Ombudsman has been advocated for Australia, but none has been established there, mainly because of opposition from politicians who fear the loss of electoral advantages to be gained from case-work. In New Zealand, the office was instituted in 1962, and has become firmly established. The main features of the New Zealand Act are considered under the headings "Area of Activity," "Discretionary Exclusions," "Basis for Intervention," and "Remedies," "Sanctions," and "Procedure." Under the heading "The Ombudsman and His Work," attention is drawn to the personal qualities which have made the first New Zealand Ombudsman, Sir Guy Powles, a success, and the form of his annual reports is described. These reports present a classification which is mainly departmental, and which emphasizes the proportion of complaints found justified and unjustified. But the reports also give summary accounts of about eighty cases in each year, in a manner facilitating juristic analysis of the way in which the Ombudsman discharges his functions. Under the heading "The Jurisprudence of the Ombudsman," attention is drawn to legal classifications under which the cases may be arranged, corresponding to general principles of estoppel, promissory estoppel, quasi-estoppel, equity, tort, quasi-tort and quasi-contract.

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ALTHOUGH there has been widespread growth of interest in the Ombudsman concept in Australasia, and although New Zealand established an Ombudsman office in 1962, no such institution has as yet been adopted in Australia, despite scattered public movements advocating it and some support for the proposal among the political parties

AUSTRALIA

Australia covers an area of about three million square miles, around whose perimeter a population approaching twelve million is spread, and it has a federal constitutional system in which governmental powers having a direct impact on the individual citizen are distributed among the governments of six states¹ and the Commonwealth (federal) government. Problems of communication are still considerable, and an Ombudsman operating in the Commonwealth sphere (which includes some grievance-producing powers, such as old-age and invalid pensions and migration) would encounter considerable difficulties, notwithstanding the heavy concentration of policy decisions in the parliament and Executive in Canberra, the national capital. Hence it is not surprising that there has been no substantial pressure from the public for a Commonwealth Ombudsman and no serious support for such proposals among the political parties.

In any event, a majority of the government activities likely to cause citizen grievances, and which have, in fact, caused them, fall within the state government sphere. State government is highly centralized in the six state capitals, which are also the largest cities and the focus of conurbations containing 70 per cent of the state populations; and local government is relatively weak.

¹ New South Wales, Victoria, Queensland, South Australia, Western Australia, Tasmania.

The state parliaments and executives directly control the main aspects of police, education, public health, factory regulations, roads, transport and traffic, railways, many aspects of land-use and town planning, agricultural services (including collective marketing), water, public power (including nearly all electric power), and a host of other service and regulatory activities. Hence a state Ombudsman with headquarters in a state capital would find (as has been the experience of the New Zealand Ombudsman) that, in most cases, he could take a complaint a considerable distance merely by picking up a telephone.

Hence, moves towards establishing the office have also been much stronger at the state level. In 1965, a Liberal-Country-party coalition government came to power in New South Wales on a program which included the establishment of an Ombudsman, but the government referred the proposal to a Standing Law Reform Commission, under a judicial chairman, for a preliminary report. Because of urgent priority law-reform measures, the reference (which included a request for concurrent recommendations as to the administrative law system) has not, at this writing, received attention. In Victoria, the Australian Labor party included a similar proposal in its election program at a general election in 1967, but this party was heavily defeated on other issues. There is strong support for such a proposal at the branch level in the Victorian Liberal party, but the government and parliamentary members of that party are opposed. Except in New South Wales, parliamentarians in Australia generally are skeptical or lukewarm about the Ombudsman, partly because the individual member of parliament, to some extent, performs grievance-settling functions, and derives political strength from so doing. The limitations and drawbacks of the parlia-

mentary solution to individual grievances are much the same in Australia as elsewhere,² and it is likely that, in due course, at least some Australian states will follow the New Zealand example.

NEW ZEALAND

Establishment of an Ombudsman

New Zealand is a unitary nation-state with an area of about 104 thousand square miles and a population approaching three million. The government is highly centralized in Wellington, the national capital, though population is better dispersed than in the Australian states and administration is correspondingly more decentralized. New Zealand is also an advanced welfare state, with a high degree of regulation and co-ordination of its economy, a condition aggravated by the balance-of-payments difficulties of a country heavily dependent on export of primary produce in a falling world market for such exports. Hence the opportunities for excess or abuse of governmental power are considerable, and the New Zealand Law Reports have, for a long time, contained a high proportion of important administrative law decisions. The desirability of more adequate remedies for aggrieved citizens was recognized and discussed through the 1950's, and these discussions were given a particular emphasis and direction by the presence of a minister and a senior public servant at the United Nations Seminar on Administrative Problems held in Ceylon in 1959, at which was read a paper on the office of the Ombudsman prepared by the Danish incumbent of that office, Professor Stephan Hurwitz.

² See D. C. Rowat (ed.), *The Ombudsman: Citizen's Defender* (Toronto: University of Toronto Press, 1965), pp. 188-190; G. Sawyer, *Ombudsmen* (Melbourne: University of Melbourne Press, 1964), pp. 39-41.

The Labour party, then in power, was divided on such proposals: left-wing socialists suspected that an Ombudsman was mainly important for unreconstructed rugged individualists, and civil service organizations with influence in that party suspected that he would operate mainly to increase their difficulties and tarnish their public image. But the proposal was taken up enthusiastically by some lawyer-politicians in the opposing National party, which came to power at the general election of 1960 on a program including appointment of an Ombudsman. A bill embodying the proposal was tabled for public discussion in 1961, and in 1962 the "Parliamentary Commissioner (Ombudsman) Act" was passed and the first appointment made.

Name, appointment, and tenure

The Labour party, while not strongly supporting the institution, voted for the measure, and the only division concerned the question of a name for the office. Some objected to the foreign-sounding word "Ombudsman" and wished to use only the title "Parliamentary Commissioner." As a compromise, both expressions were employed, and the Act refers to the officer throughout as "the Commissioner." But, from the first, the name "Ombudsman" caught on, is invariably used in popular and parliamentary speech, and is the title appearing on the letterhead and the building used by the Commissioner.

The Ombudsman is defined as an "officer of Parliament," but may not be a member of parliament or engage in any other occupation.³ He is appointed by the Governor-General on the recommendation of the (unicameral) parliament.⁴ The first appointment was recommended without dissent, and has

³ New Zealand, "Parliamentary Commissioner (Ombudsman) Act," S 3.

⁴ *Ibid.*, S. 2

been unanimously renewed. The tenure is for the life of a parliament; a fresh appointment must be made in each parliament's first or second session.⁵ (Parliament's maximum duration is three years.) The Ombudsman may be removed only for cause by an address of parliament, and his salary is charged on consolidated revenue, thus giving him a high degree of independence while in office.⁶ The short tenure was designed to ensure that the Ombudsman should have and retain the confidence of parliament, which is essential to his success, but it was hoped that renewal of appointment would become usual. Subordinate staff may be appointed only with the approval of the Prime Minister and on terms approved by the Minister of Finance;⁷ the Ombudsman has, to date, found a staff of four, including two legally trained assistants, sufficient for the work involved.

Area of activity

The Ombudsman is required

to investigate any decision or recommendation made (including any recommendation made to the Minister of the Crown), or any act done or omitted, relating to a matter of administration and affecting any person or body of persons in his or its personal capacity, in or by any of the Departments or organisations named in the Schedule of this Act, or by any officer, employee or member thereof in the exercise of any power or function conferred on him by any enactment.⁸

The Schedule lists all the departments of the New Zealand central government and twenty-two organizations and statutory corporations having various degrees of autonomy but also a nationwide competence. Among those included are

"sensitive" areas such as defense and foreign affairs and many public utilities, including railways, electricity, and telecommunications.

Local government is excluded from the Commissioner's functions, and so are some nationally operating statutory corporations, the most important being the government-owned New Zealand Broadcasting Service. The Armed Forces are not excluded, in general, but the Ombudsman may not investigate terms and conditions of service or "any order, command, decision, penalty, or punishment" in relation to such services, so that the actual area of competence here is minimal.⁹ Legal advice to the government is excluded from investigation;¹⁰ this includes most of the work of the Crown Law Office, and extends to decisions to prosecute, entry of *nolle prosequi*, and such questions. Also excluded is

any decision, recommendation, act or omission in respect to which there is, under the provisions of any enactment, a right of appeal or objection, or a right to apply for review, *on the merits of the case*, to any court, or to any tribunal constituted by or under any enactment, whether or not that right of appeal or objection or application has been exercised in the particular case, and whether or not any time prescribed for the exercise of that right has expired.¹¹

The Ombudsman is authorized to obtain a declaratory opinion from the Supreme Court of New Zealand whenever a question arises as to his jurisdiction.¹² It was expected that this power would have to be exercised freely, in view of ambiguities in the above provisions. For example, the Ombudsman's power to investigate recommendations made to ministers tends to conflict with the exclusion from his competence of decisions

⁵ *Ibid.*, S. 4.

⁶ *Ibid.*, Ss. 5, 7.

⁷ *Ibid.*, Ss. 7, 9.

⁸ *Ibid.*, S. 11.

⁹ *Ibid.*, S. 11(6).

¹⁰ *Ibid.*, S. 11(5)(c).

¹¹ *Ibid.*, S. 11(5)(a); emphasis supplied

¹² *Ibid.*, S. 11(7).

in Cabinet. The expression "relating to a matter of administration" might be narrowly interpreted so as to exclude all questions of legal interpretation or of policy. The provision concerning decisions open to appeal was also thought to contain ambiguities. But, in fact, the Ombudsman has not, at this writing, had to make an application to the Supreme Court. This is partly because departments, authorities, and civil servants have found it better to co-operate with the Ombudsman than to resist his activities, and partly because the difficulties of interpretation have proved less than was expected. Thus, it has been found easy enough, in practice, to isolate advice to ministers from the resulting action. The expression "matter of administration" is bound to be given a wide interpretation because of the great width of the grounds (about to be discussed) on which the Ombudsman is empowered to act. The provision about decisions as to which there is a right of appeal is in terms confined to appeals, and the like, *provided for by statute or regulation*; hence the existence of common-law remedies such as actions for damages or the prerogative writs does not exclude investigation, and the requirement that the "merits of the case" should be open to appeal clearly excludes the fairly common case of a statutory appeal confined to questions of law.

Discretionary exclusions

The Ombudsman may decline to undertake or continue an investigation if he considers that there is "an adequate remedy or right of appeal, other than the right to petition Parliament," or if, considering all the circumstances of the case, he believes further investigation to be unnecessary.¹³ In particular, he may decline to investigate any complaint known to the complainant for

¹³ *Ibid.*, S. 14(1).

more than a year if he thinks the subject matter trivial; or the complaint frivolous or vexatious, or not made in good faith; or if the complainant lacks sufficient personal interest in the matter.¹⁴ (It may be noted that since these grounds of exclusion are confined to "stale" complaints, there is an inference that *fresh* complaints can receive consideration even though trivial or frivolous or made by a person not having the sort of personal interest which would give *locus standi* in administrative law, but these could be excluded under the general discretion.)

The Attorney-General can also shut off or limit enquiries by certifying that the "giving of any information or the answering of any question or the production of any document or thing" may prejudice security, defense, or international relations or involve disclosure of Cabinet "deliberations" or of proceedings" of Cabinet or its committees relating to confidential matters whose disclosure would injure the public interest.¹⁵ Subject to this provision, however, the general Crown prerogative of preventing the disclosure of documents if injurious to the public interest is expressly waived in favor of the Ombudsman's investigative power.¹⁶

Basis for intervention

The Ombudsman's investigations are directed to ascertaining whether, in his opinion, the decision or action which he investigates was contrary to law; "unreasonable, unjust, oppressive, or improperly discriminatory"; based wholly or partly on a mistake of law or fact; made for an improper purpose or on irrelevant grounds or on the taking into account of irrelevant considerations; in the case of a discretionary power, given without reasons when they should have

¹⁴ *Ibid.*, S. 14(2).

¹⁵ *Ibid.*, S. 17(1).

¹⁶ *Ibid.*, S. 17(2).

been given; or "wrong."¹⁷ Even without the last expression, it would be difficult to conceive of any kind of complaint against administrative decisions not covered by the preceding catalogue of grounds. The very completeness of the latter serves to make the expression "wrong" equivalent to an emphatic legislative declaration that the Ombudsman should not confine himself to the categories of objection which are familiar to lawyers, but should rather regard himself as exercising an extremely broad discretion stemming from the same moral sentiments as have inspired the notion of "equity" in its original forms.

This breadth of interpretation is strongly supported by the further provision that the Ombudsman is required to consider, not only whether a decision or action has been taken *in accordance with* a valid rule of law, enactment or practice, but also whether that rule, enactment or practice *is itself* "unreasonable, unjust, oppressive, or improperly discriminatory," and to make recommendations accordingly.¹⁸

Remedies

The Ombudsman is required to recommend whatever action he thinks appropriate if the decision in question has incurred an adverse finding under the above provisions; this may be the cancellation or variation of a decision, or the rectification of an omission, or reconsideration of the decision by a relevant authority, or the giving of reasons. If he makes an adverse finding with respect to the reasonableness, justice, and the like, of a law or practice, he may recommend an appropriate change in that law or practice.¹⁹

However, the Ombudsman's power is confined to the making of *recommendations*. He must report his findings and

his recommendations to the appropriate department or organization, and may request it, within a specified time, to notify him of the steps it proposes to take; he must also send his finding and recommendation to the minister concerned.²⁰ He has no power to make anything in the nature of a judicial order which quashes the decision complained of (as with *certiorari*), or which specifically directs an act or omission (as with *mandamus* or injunction), or which replaces any existing law or practice (as with the making of a regulation and the like).

Sanctions

If the department or organization concerned fails to act, or to act sufficiently, so as to comply with a recommendation from the Ombudsman, the latter has no compulsive powers. For example, he cannot, like some Scandinavian Ombudsmen, himself take or instigate action in the courts. His first step is to report the matter to the Prime Minister, and his next is to report to parliament.²¹ Parliament may also make rules authorizing the Ombudsman to disclose investigations to the press,²² and in particular to disclose refusal of a department or agency to accept his recommendations, and such rules have been made. (In no case has a department or organization as yet acted in such a manner as to require even a report to the Prime Minister, though, in a few cases, the Ombudsman has obtained observance of his recommendations only after some delay and, in a few cases, he has withdrawn a recommendation where further representations by a relevant department have convinced him that an initial recommendation was wrong. He has reported to the press sparingly, and, in no case, as part

¹⁷ *Ibid.*, S. 19.

¹⁸ *Ibid.*, S. 19(1)(b).

¹⁹ *Ibid.*, S. 19(3).

²⁰ *Ibid.*, S. 19(3).

²¹ *Ibid.*, S. 19(4).

²² *Ibid.*, S. 12(2).

of a tactic to compel observance of recommendations.)

The Ombudsman is also required to make an annual report to parliament, and this operates, *inter alia*, as a sanction for his recommendations, because, as we shall see, the report is made in a form tending to draw the attention of parliament and public to anything like sustained indifference to the good will of the citizens, and of the Ombudsman.

The Commissioner and his staff have absolute privilege with respect to anything done or said in the course of their duties.²³ Decisions of the Commissioner may be judicially challenged for lack of jurisdiction, but not on any other ground.²⁴

Procedure

The Ombudsman may launch an investigation on his own motion or on a complaint made to him "by any person";²⁵ this provision supports the view that there are no rigid requirements as to *locus standi*. A citizen complaint must be in writing, accompanied by a fee of (New Zealand) £.1 (United States \$2.77).²⁶ The fee may be waived, and often is. A committee of parliament may also refer to him for investigation and report any petitions before that committee. Any letter addressed to him by an inmate of a mental health institution must be delivered to him unopened.²⁷

Before proceeding with an investigation, the Ombudsman must inform the executive head of the department or organization affected. Investigations are in private, and the Ombudsman is not required to hold any hearings, nor does any person have a right to be heard except a department, organiza-

tion, or person with respect to which or whom he proposes to make an adverse report. The Ombudsman may consult any minister, and must do so before making a final decision adverse to a relevant department or agency.²⁸

The Ombudsman can compel any person and organization to provide evidence and to produce documents. He may examine witnesses on oath, in which case, official secrecy provisions do not apply, but the witness has the usual privileges with relation to incrimination and the like, and no statement is admissible in legal proceedings save for perjury prosecutions.²⁹ He may enter the premises of any department or organization subject to his jurisdiction.³⁰ We have seen that the Attorney-General can claim privilege for certain classes of information and documents. The Commissioner may, with the approval of the Prime Minister, delegate investigations to members of his staff, but not the power to make a final decision on a case.³¹

The Commissioner and his staff are required to maintain confidentiality for information they obtain, except insofar as ultimate reports are authorized.³² (In fact, the Ombudsman usually makes his reports without names of individuals and in a manner making identification of individuals difficult, unless the case has, in some other way, received extensive publicity in which individuals are named.)

The Ombudsman and his work

New Zealand has been fortunate in its first Ombudsman, Sir Guy Powles. Formerly a lawyer, soldier, and diplomat, he brought to the task a mature and tolerant personality, a wide knowl-

²³ *Ibid.*, S. 22.

²⁴ *Ibid.*, S. 21.

²⁵ *Ibid.*, S. 11(2).

²⁶ *Ibid.*, S. 13(1) & (3).

²⁷ *Ibid.*, S. 13(2).

²⁸ *Ibid.*, S. 15.

²⁹ *Ibid.*, S. 16.

³⁰ *Ibid.*, S. 23.

³¹ *Ibid.*, S. 24.

³² *Ibid.*, S. 18.

edge of New Zealand law and government, and personal enthusiasm for the potentialities of the office. In holding the balance between citizens who sometimes imagine or exaggerate grievances, and officials who sometimes resent interference on anything but the strictest legal grounds, he has inevitably incurred some criticisms, but most of those who were lukewarm about the office in 1961–1962 are now enthusiastic supporters. There are proposals to extend his jurisdiction, and the Labour party and the civil servants in particular have abandoned their previous objections.

The Ombudsman's annual reports run from March to March,³³ and their analytical tables and notes of selected cases constitute an invaluable source for students of the institution. Up to March 31, 1967, he had received 3,241 complaints. (The annual case-load rapidly levelled out at about 720 cases a year, and seems likely to increase only slowly, unless further aspects of government are brought under investigation.) Of these, he fully investigated 1,490, and found 263 to be justified, and 1,227 to be not justified; the "justifieds" have slowly declined, the 1966–1967 figure being about 16 per cent of fully investigated cases. However, the figures do not indicate the number of cases, probably fairly large, in which remedial action was taken so promptly on first enquiry by the Ombudsman that no investigation was necessary. Also, as we shall see, the complaints which the Ombudsman has found to be justified carry implications for government practice and citizens' rights which extend far beyond the circumstances of the individual cases. The 1,751 cases not investigated, or not fully investigated, included 1,134 in which he regarded himself as having no jurisdiction.

³³ The first covered the period October 1, 1962 (when he commenced operations) to March 31, 1964

(Note that there is no remedy for such refusal except a decision by the Ombudsman himself to seek a declaration from the Supreme Court.) The largest "no jurisdiction" group (914) were cases not coming within the control of the scheduled departments and organizations. The Ombudsman exercised his discretionary power to reject a complaint in 52 cases, and the remainder were withdrawn, discontinued, or not completed.

The Statistical Table of Complaints in each report classifies them under the departments or organizations mainly involved. This is quite appropriate in a report intended for parliament and government, because the politicians and civil servants will be more interested in this type of classification and less in the alternate classifications about to be mentioned. The departmental classification causes one difficulty on which the Ombudsman has several times commented.³⁴ It is that the incidence of complaints is related to the number of citizens affected by a particular kind of activity, rather than by the standard of performance of a particular department, so that the appearance of a competition between departments for a good score with the Ombudsman can be unfair to some departments. Nevertheless, the citizen can only regard the stimulus to better administration provided by this sort of competition as a good thing, and the gross figures are interesting. The Department of Social Security (pensions, health benefits, and the like) shows the largest number of complaints, with the taxation departments, and in particular the Department of Internal Revenue (income tax and the like), coming next. But while the percentage of justified complaints in investigated cases for the Department of Social Security is only about 10 per

³⁴ See especially New Zealand, Ombudsman. *Report*, 1965, pp 6–7.

cent for the whole period (and for 1966-1967), that for Internal Revenue is about 25 per cent for the whole period, although in 1966-1967 there were only six investigations for this department and no complaint was found justified. Other departments showing large totals of initial complaints are the Department of Education, with about 12 per cent justified, and the State Services Commission (which controls the career public service), with about 35 per cent justified. An assessment of the departmental figures would require, among other things, an investigation of the nature of the decisions inviting complaint—for example, whether they involve rigid rules or broad discretions—and of the departmental organization—for example, whether a department is adequately staffed, and whether there is opportunity for reconsideration or "appeal" within the department. The relatively low percentage of justified complaints helps to explain why the civil service has come to regard the Ombudsman as a defense against unjustified criticism rather than an enemy; perhaps, too, the change of heart has been aided by the relatively high proportion of successful complaints by civil servants themselves against the State Services Commission.

The jurisprudence of the Ombudsman

To the outside observer, and particularly the lawyer, the interesting classifications of the cases may not be the departmental classifications but those based on other features of the complaint and of the remedy suggested by the Ombudsman. Each annual report contains notes concerning about eighty cases; a majority are those in which the Ombudsman completed an investigation and made a recommendation adverse to an official decision, in circumstances where the officials were inclined to defend that decision. But there is

also a considerable number of cases in which the Ombudsman upheld an official decision, and in which remedial action was taken by a department before he had reached a decision, including action more beneficial to the citizen than the Ombudsman would have found required by the circumstances. A complete study of the Ombudsman's jurisprudence would require attention to all these cases, but for present purposes it is sufficient to mention some categories of cases in which recommendations causing a change in law, practice, or decision have, in substance, been reached.

Suggestions for changes in law and practice have the kaleidoscopic qualities to be found in legislative action itself, ranging from a mere desire for greater clarity and publicity for existing laws to change required by changing social circumstances, or changing social valuations, or perception of elements of injustice in an existing rule which were not previously perceived. For example, existing legislation required the downgrading of teachers if school numbers fell, with resulting drop in salary, but gave the teacher two years in which to seek another post before the reduction became effective. This period had become inadequate, owing to other changes in school organization, and a recommendation for discretionary extension of the period was embodied in amending legislation. The complaining teacher was paid the previous salary retroactively.³⁶ National Park Authority regulations required tourists on the Milford Sound Track to go in officially guided parties and stay at official chalets; better organization of hiking clubs and availability of nonofficial guides made this an undue restriction on individual liberty, and unduly expensive for young people. On the basis of a complaint by clubs, the Ombudsman personally hiked over

³⁶ *Ibid.*, 1965, Case 1211, p. 18.

the Track, and then promoted negotiation between the clubs and the Authority that resulted in a fresh set of regulations which allowed for nonofficial hikes.³⁶ The case of a convicted prisoner who failed to establish personal contact with the barrister handling a judicial appeal, owing to actions by the prison officials, produced changes in prison regulations to ensure that prompt access to legal advisers was guaranteed.³⁷ (This case, incidentally, would make the hair of an American lawyer stand on end, and if it had happened in the United States would certainly have ended with the quashing of the conviction on the ground of denial of due process. The Ombudsman was not prepared to recommend any such step, because the Anglo-Australasian rule of "substantial miscarriage of justice" left the actual conviction and sentence standing. In such matters, even Sir Guy Powles operates within the blinkers of an accustomed system!)

The Ombudsman has engaged in something of a campaign to improve the standards of clarity of expression and publication of laws, regulations, official forms, and even official speech. One aspect of this emphasis is a tendency to establish what the lawyers would call extended principles of estoppel or promissory estoppel: that is, to hold government officials to the terms of what a citizen actually thought they meant, in circumstances where the narrow doctrines of estoppel prevalent in Anglo-Australasian law would not apply. This is in line with a more general tendency, also characteristic of the Conseil d'Etat in France, to impose rather stricter standards of conduct on the government than those which are required of private citizens. For example, departments concerned with import policy had discretionary power to destroy some im-

ported meat cubes because they came from countries where foot-and-mouth disease existed. The owner was first encouraged by some officials to obtain certificates of sterilization, which were useless because a decision had been taken by other officials, and not communicated, that certificates would not be accepted. Then the owner was given ten days in which to decide whether to return the meat to country of origin or have it destroyed, but on the ninth day, without further notice, the meat was destroyed. It is highly unlikely that an action for damages would have succeeded, but the Ombudsman recommended payment of compensation and some changes in procedure, and the recommendation was carried out.³⁸ In another case, a complainant rejected opportunities for letting commercial premises because the local police had asked him to let them for use as a station house; the police had to obtain departmental approval, and after considerably delay, they changed their minds and took other premises. Here, also, there was probably no legal remedy, but compensation was recommended and paid.³⁹ Sometimes a mere failure to give what would have amounted to legal advice has been treated as a basis for recommending remedial action, as where a license to conduct a lottery for charitable purposes was granted without a warning, which might have been expected, that the transaction was taxable.⁴⁰ Importlicensing is particularly apt to give rise to these quasi-estoppel situations.⁴¹

In many cases, the Ombudsman has acted rather like the English Chancellor of old, not disagreeing with the official "law," nor even recommending any

³⁸ *Ibid.*, 1967, Case 2231, p. 10.

³⁹ *Ibid.*, 1966, Case 2066, p. 86.

⁴⁰ *Ibid.*, 1967, Case 2408, p. 43.

⁴¹ For example, *Ibid.*, 1964, Case 275, p. 20; Case 952, p. 24.

³⁶ *Ibid.*, 1966, Case 1035, p. 80.

³⁷ *Ibid.*, 1967, Case 2920, p. 50.

change in the law, but finding an "equity" in the particular circumstances which requires remedial action. For example, in a case of the *Crichel Downs* type, he assumed that a person whose land has been compulsorily acquired by government has an equity of pre-emption.⁴² Where a motor vehicle bought by a New Zealand tourist abroad had not been in use overseas for the time required to give right to an import license, because serious illness had compelled early return, permission to import was recommended and granted.⁴³ A rural mail contractor was recommended for compensation because his reasonably expected net return was much reduced by delays on his route caused by an unforeseen highway construction program.⁴⁴ Taxation legislation allowed deduction of the costs of a housekeeper in the case of widowers and divorced men with custody of young children; a man with custody following a legal separation, not covered by the legislation,

was recommended for a discretionary deduction.⁴⁵

This kind of analysis can be carried far. There are cases of excess of power tending towards abuse of power in ways beyond the control of *certiorari* and such remedies, cases where government responsibility in areas of tort, quasi-tort and quasi-contract is extended by the device of recommendations for *ex gratia* payments, cases where government liability for mere omission (nonfeasance) is established although the common law requires mis- or even mal-feasance. Beyond question, the basis for an improved type of administrative justice has already been established by the New Zealand Ombudsman, a much cheaper justice than the regular legal system can offer, having the qualities of flexibility and adaptability associated with the Conseil d'Etat. The absence of compulsive process is of little importance, so long as the government and its servants so readily concur with, or even anticipate, the recommendations of the Ombudsman.

⁴² *Ibid.*, 1967, Case 2107, p. 58.

⁴³ *Ibid.*, 1964, Case 337, p. 26.

⁴⁴ *Ibid.*, 1964, Case 916, p. 57.

⁴⁵ *Ibid.*, 1964, Case 569, p. 50.

Remedies against Administrative Abuse in Central Europe, the Soviet Union, and Communist East Europe (Ombudsmen and Others)

By HELMUT BADER and HENRY BROMPTON

ABSTRACT: The establishment of German administrative courts does not exclude the institution of an Ombudsman, but the German tradition of executive predominance works against it. The law of the German Federal Republic provides for a *Verfassungsbeschwerde*, which places rights under the protection of a Constitutional Court. Creation of the armed forces led to the establishment of a Defense Commissioner of the Bundestag—an office modeled after the Swedish Military Ombudsman—which is now generally accepted. There appears to be little interest in a Civilian Ombudsman. Austria has a long tradition of effective control by the Federal Administrative Court. Introduction of an Ombudsman is not, at present, under consideration there. In the Soviet Union, control over public administration is exercised by a branch of the Executive—the Prokuratura. However, unlike Scandinavian Ombudsmen, Procurators are subordinated to party guidance and discipline. Moreover, Soviet law provides scant access to courts for citizens seeking redress of administrative abuses. East European regimes have abolished review by administrative courts and adopted the Soviet Procuracy. In Yugoslavia, public prosecutors retain their role of guardians of legality, but supervision of administration has, largely, been transferred to the courts. Other East European countries, to date, have not followed the Yugoslav example. A debate on this issue is now in progress.

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THE main purpose and function of an office like that of the Swedish Justitieombudsman is to protect the public in general, and the individual in particular, against abuse of power by executive officers and administrative agencies.

THE GERMAN FEDERAL REPUBLIC AND AUSTRIA

There was probably no country more in need of the Ombudsman institution than Germany. Traditionally, Germany, whether as a "Polizeistaat" or as a "Rechtsstaat," has been characterized by executive predominance; this is true at the present time, for both the Federal Republic and the Democratic Republic. There seems to be no indication that the institution of the Ombudsman is actually affected by whether or not a specific country uses a system of administrative courts. The existence of such courts would qualify it as a "Rechtsstaat," which may or may not have an Ombudsman. However, the distinction between Polizeistaat, "Justizstaat," and "Rechtsstaat" has significance for the institution of the Ombudsman.

An order of Friedrich II of June 19, 1749, declared that "the usual paths of justice were closed where the issue involved a clash between private and public interests; nor were other means of self-defense allowed to the injured party save the right of appeal to a higher official in the bureaucratic hierarchy."¹ This represents to a high degree the type of police state as it existed under the enlightened absolutism of Friedrich II of Prussia and of Joseph II in Austria. It is obvious that under the premises of such a police state, an Ombudsman is conceptually unthinkable.

¹ Gerard Auschuetz, *Verwaltungsgerichtsbarkeit: Handbuch der Politik*, Vol. I (Muenchen, 1914), Vol. I, pp. 318 ff.

able. The institution of the Ombudsman presupposes that the individual has rights against the state and its organs, whereas the police state, almost by definition, precludes such a possibility. At any rate, the main characteristic of the Scandinavian Ombudsman is his separation from, and independence of, the bureaucratic hierarchy and the executive power.

The "Justizstaat," in which ordinary courts of law decide conflicts between public authorities and private persons, was not accepted on the Continent, although some outstanding German legal writers of the nineteenth century, like Robert von Mohl² and Otto Baehr, considered it to be the best protection of the private citizen against official abuse. Baehr viewed his "Rechtsstaat" in terms of the "Justizstaat": regular courts were to be entrusted with the interpretation of the legality of public acts, and the same system of regular courts was to deal with matters of private and public law. An Ombudsman, independent from the Executive as well as from the judiciary, clearly does not contradict the concept of the "Justizstaat."

The concept of the German "Rechtsstaat" has developed, in practice, according to the ideas outlined by Rudolf von Gneist.³ He insisted that the administrative system of a "Rechtsstaat" be constructed along the line of legal responsibility for administrative acts. This legal supervision would be carried out by courts but, in distinction from Baehr's idea, by special administrative courts, staffed by independent judges, called upon to decide on the legality of official acts. The administrative act has to be based on law; in a "Rechtsstaat" a governmental official is not permitted

² Robert von Mohl was the originator of the term "Rechtsstaat."

³ Rudolf von Gneist, *Der Rechtsstaat und die Verwaltungsgerichte in Deutschland* (Berlin, 1879).

to act *sine lege* or *contra legem*; the administrative agencies are responsible to an independent authority outside the administrative hierarchy, namely, administrative courts. The distinction between "Polizeistaat" and "Rechtsstaat" can thus be expressed briefly in the following manner: "Polizeistaat" is the state without administrative law; "Rechtsstaat" is the state with administrative law. Obviously, this "Rechtsstaat" does not preclude the institution of an Ombudsman independent of both the bureaucratic hierarchy and the administrative courts. It does not, however, make the Ombudsman an indispensable or even necessary institution because, at least in theory, the private citizen was considered to be fully protected against official abuses by independent courts whose only function consisted in providing this protection.

In practice, a different picture developed. The first administrative court in Germany was established in the state of Baden in 1863; others were created in different states of the Empire. (The most important was that of Prussia.) The Weimar Constitution provided for a federal administrative court which, however, was never established. The greatest weakness in regard to the protection of the rights of the private citizen by administrative courts consisted in a long-established principle of German administrative law: only limited and precisely defined administrative acts were subject to review by these courts. Some state administrative courts at the end of the Weimar period were granted general jurisdiction over all administrative matters. This so-called *Generalklausel im Verwaltungsprozess* (general clause) now represents a general principle of administrative law in the German Federal Republic. It applies to the Federal Administrative Court provided for in Article 91 of the Basic Law. This court was created by a federal law

of September 23, 1952, and is located in Berlin. The *Generalklausel* applies also to the hierarchy of administrative courts in the several states and makes it now possible, if not always feasible, for every citizen to ask for the review of any administrative act or decision by an independent court. Does this mean that there no longer is need for an Ombudsman in Germany? After all, the administrative process is under judicial control; in addition, the Basic Law provides for the device of the so-called *Verfassungsbeschwerde* (constitutional complaint) according to which everyone is entitled to approach the Federal Constitutional Court if he believes that any of his basic rights were violated by public authority. There is consequently no formal lack of judicial protection for the citizen of the Federal Republic against violation of constitutional rights or against illegal or abusive use of power by administrative agencies. However, for practical reasons, access to the administrative courts is costly and, consequently, not easily available. In addition, at least at the present, and in spite of noticeable improvements, the German "Rechtsstaat" tradition is still set against a strong judicial control and supervision of the administrative process. The German administrative courts are excessively preoccupied with the demands of public order, while they often overlook the need to avoid administrative abuse of power. So there is a genuine and urgent need for an Ombudsman in civil matters similar to the Swedish Justitieombudsman. This need is even more emphasized because of the extreme formalism of the administrative judge, who does not consider his role as primarily that of a guardian of the interests of the complainant. However, the creation of a Civil Ombudsman would require a reinterpretation of the traditional "Rechtsstaat" concept; this is not inconceivable; after all, the

need for a Military Ombudsman was recognized.

The constitutional position of the Defense Commissioner of the Bundestag

With the establishment of the Bundeswehr (Federal Armed Forces), responsible democratic leaders of the Federal Republic proposed the creation of the office of the "Wehrbeauftragter des Bundestages" (Defense Commissioner of the Federal Diet). The main reason for the proposal was to increase parliamentary control in the military field beyond the budgetary control and other means, which, in the past, have proven insufficient to prevent the army from becoming "a state within a state."

The original suggestion for the establishment of a Military Ombudsman was made by Ernst Paul, a Social Democratic member of the Bundestag who became familiar with this institution when he was in exile in Sweden during World War II. The proposal received wide support from both major parties of the German Federal Republic. It was incorporated into the Basic Law as Article 45b. The Article reads as follows:

A Defense Commissioner of the *Bundestag* shall be appointed to safeguard the basic rights and to assist the *Bundestag* in exercising parliamentary control. Details shall be regulated by a Federal Law.

The law implementing the second sentence of the article was passed by the Bundestag on June 26, 1957.⁴

The institution of the Defense Commissioner of the Bundestag is an innovation in German legal and constitutional tradition. It is obviously modeled after the Swedish Militieombudsman, but is not entirely identical with the original. The Bundestag elects the Commissioner with an absolute majority by secret ballot without previous

debate. The Commissioner is elected for a period of five years like the federal President. The reason for this is to keep his term separate from the four-year term of the Bundestag. The federal President can only be re-elected once; this restriction does not exist with regard to the Defense Commissioner, who can be re-elected again and again. He can, of course, resign, and may also be dismissed by the Bundestag by an absolute majority on a motion of its Committee of Defense. Like the federal President, the federal Chancellor, and the federal ministers, he may not hold any other salaried office, nor engage in any trade, nor practice a profession, nor belong to the management or the board of directors of a private enterprise. The Commissioner is also not permitted to be a member of the government or the legislature of any of the states.

According to Article 45b of the Basic Law, the Defense Commissioner holds in relation to the Bundestag a double position. He is independent from the Bundestag insofar as he is instructed by the Basic Law to safeguard basic rights; he has a dependent position insofar as he has to assist the Bundestag in exercising parliamentary control. In this latter function, he is an auxiliary organ of the Bundestag. The literature is widely divided with regard to the relationship between the Commissioner and the Bundestag. Some writers, pointing out that the Commissioner is an institution established by Basic Law, and consequently a constitutional office which has to be filled by the Bundestag, conclude that, therefore, he has a somewhat autonomous position, but is nonetheless a subordinate organ of the Bundestag, just as the Military Ombudsmen of the Scandinavian countries are agents of the legislatures. Proponents of this position point out that the Commissioner has been placed in

⁴ German Federal Republic, *Bundesgesetzblatt*, 1.S.652.

that section of the Basic Law which deals with the Bundestag, that he is elected by the Bundestag alone and can also be dismissed by the Bundestag alone;⁵ according to other authorities, the Commissioner is an organ neither of the legislature, nor of the executive, nor of the judicial branch of the government. In performing his function as protector of basic rights and as an auxiliary organ of the Bundestag in the exercise of parliamentary control, he performs none of the three classical governmental functions. He represents a modification of the separation of powers principle and holds a public position of a special nature.⁶

Duties of the Defense Commissioner

The double function of the Commissioner as protector of the basic rights and assistant of the Bundestag in exercising parliamentary control led to a complicated description of his duties in the "Carrying Out" Act of June 26, 1957. According to Section 1, paragraph 2 of the law, the Commissioner has to act on instructions of the Bundestag or its Defense Committee to investigate "certain events." This task to investigate "certain events" on instruction implies a restriction on the Bundestag itself. The Commissioner may not be instructed to investigate all kinds of events, but only those which fall within the framework of parliamentary control over the Ministry of Defense and matters within the latter's jurisdiction; for example, he cannot be instructed by the Bundestag to investigate matters of civil defense. With regard to his duty to investigate certain events on

instruction, the investigating power of the Commissioner parallels the investigating power of the Bundestag and the Committee of Defense, as far as matters relating to the armed forces and defense are concerned. In this respect, the Commissioner is an auxiliary organ to assist the Bundestag and the Defense Committee in exercising parliamentary control over these matters.

Section 2, paragraph 2 of the Law of June 26, 1957, is narrower in scope, but circumscribes the independent position of the Commissioner; he acts in accordance to his own "dutiful" discretion when he is made aware of circumstances, by means of information given him by members of the Bundestag, or complaints by soldiers, or in any other way, which may indicate the violation of basic rights of soldiers or the violation of the principle of "innere Fuehrung" (internal leadership). The concept of "innere Fuehrung" is a new one, and has not yet been precisely defined. Its purpose is obviously to humanize and democratize the traditionally rigid and harsh spirit of Prussian militarism. It refers to the proper behavior of superiors to subordinates, includes respect for the individual dignity of the soldier, and implies training methods which encourage understanding of democratic justice and responsible obedience. In cases of violation of basic rights of soldiers and of the principles of internal leadership, the Commissioner acts independently of the Bundestag on his own dutiful discretion. There is a clear distinction between Section 1, paragraph 2 and Section 2, paragraph 2 of the Law of June 26, 1957. According to Section 1, the Commissioner acts only on instruction of the Bundestag and its Defense Committee; according to Section 2, he acts on his own discretion. Consequently, information from the Bundestag or complaints of soldiers with regard to violations of basic rights or principles

⁵ Egon Lohse, "West Germany's Military Ombudsman," in Donald C Rowat (ed.), *The Ombudsman: Citizen's Defender* (London: George Allen & Unwin, 1965)

⁶ M. Mangoldt-Klein, *Das Bonner Grundgesetz*, Article 45b (1966), p. 960.

of internal leadership are mere suggestions which the Commissioner may or may not take up.[†]

Powers of the Defense Commissioner

One of the most important rights of the Commissioner, granted in Section 1, paragraph 3 of the law of June 26, 1957, entitles him to get all required information from the Minister of Defense and all subordinate officers and agencies; this includes all members of the armed forces. Only when compelling cases of national security are involved can this information be withheld from the Commissioner. The Commissioner can inspect files and documents and ask for oral and written statements from every official of the Ministry of Defense and every member of the armed forces; he cannot, however, force them to testify. In addition, all federal, state, and local agencies have to provide assistance to the Commissioner in carrying out necessary investigations. This implies that the Commissioner has the right to seek information from officials outside the Ministry of Defense and to make inquiries that he considers necessary through those officials. Closely related to the right to get information is the right to visit all troops, staffs, and administrative offices and institutions of the armed forces, at any time and without previous notification. This right to visit has to be exercised by the Commissioner in person. He has the right to ask from the Ministry of Defense comprehensive reports on the exercise of disciplinary power in the armed forces, and can also request, from the Federal Ministry of Justice and the ministries of justice of the several states, statistical reports on the administration of criminal justice related to members

of the armed forces and their families. The Commissioner is entitled to be present at all court hearings of criminal and disciplinary matters relating to his duties, even when the public at large is excluded. He has access to the files to the same extent as does the public prosecutor. He has to be notified by the administrative agencies of the federation and the states when criminal or disciplinary proceedings are instituted, and he has to be informed of the results of proceedings in all matters which he has brought to the attention of the agencies.

Beyond the right to information, the Commissioner can make suggestions and recommendations to other governmental agencies; he is, however, not entitled to give instructions.

In distinction from the Swedish Militeombudsman, the Commissioner is not entitled to order criminal or disciplinary proceedings against members of the armed forces who have committed a criminal offense or have violated official duties. He is also not entitled to take any direct action or appeal against an incorrect decision of a military superior or a disciplinary court.

The most effective tool at the disposal of the Commissioner is his report to the Bundestag. At the end of each calendar year, he has to submit a written comprehensive report, which in the last years amounted to approximately forty to fifty pages, dealing with the Commissioner's activities and presenting the pertinent statistics for the year under consideration. He is also obligated to submit an individual report, written or oral, on request of the Bundestag or the Defense Committee on an investigation taken on instruction by these two bodies. He may also, on his own discretion, report on investigations that he has made on his own regarding violations of basic rights of soldiers or the principles of internal leadership.

[†] According to Paragraph 8 of the Law of June 26, 1957, anonymous information or complaints will not be processed.

There has been a keen interest in the institution of the Commissioner from the beginning. This interest reached a high point in the summer of 1964, when Vice Admiral Helmut Heye, the second man holding the position, published a series of articles in a popular magazine at the same time that the annual report was submitted. He drew attention to undue hardships in training procedures and other shortcomings and voiced the fear that there was again a trend toward "a state within the state" within the armed forces. He resigned in November 1964 before expiration of his term and was replaced by a former chairman of the judicial committee of the Bundestag. The conclusion can be drawn from this episode that the institution of the Defense Commissioner is now well established; in spite of the often emotional discussions at the time, the office was never attacked; on the contrary, all responsible political parties and groups, backed by public opinion, stressed the continuous need for the institution of the Defense Commissioner. This alone must be considered a significant improvement. The hope may be expressed that the acceptance of the Commissioner is one sign of the so badly needed democratization of Germany, to the extent that it firmly represents the principle of civilian and parliamentary control over the military. One must hasten to add that the effectiveness of the institution is entirely dependent upon the democratic character of the civil authority, especially the Bundestag.

The establishment of a Civilian Ombudsman is presently not under consideration. German jurists still hold that the existence of a system of administrative courts and the new device of the *Verfassungsbeschwerde* to the Constitutional Court provide sufficient protection for the individual citizen against administrative illegality and arbitrariness. It can also be argued

that the Ombudsman does not fit conceptually into the German "Rechtsstaat" concept. These are not convincing arguments against the creation of a Civilian Ombudsman in Germany. It may be argued that in countries like Germany any device for the protection of individual rights against administrative encroachment, and for making the civil servant more responsive to individual situations, should be helpful.⁸ To this may be added the fact that the administrative courts in Germany are not particularly strong and, for several reasons, are still under the influence of the Executive.

With regard to the last point, the situation is somewhat different in Austria. Not only were centralized administrative organs in existence since the reign of Maria Theresa, but also the Austrian constitution provides in detail for a Federal Administrative Court with extensive and very specific powers. This Court is strong and very active. The Administrative Procedure Act of Austria is generally considered to be one of the best in Europe. Consequently, in Austria, an Ombudsman could possibly mean the need for some complicated adjustments of administrative procedures and, of course, would pose the same theoretical questions with regard to the "Rechtsstaat" concept as in Germany. In addition to the Administrative Court, Austria has a Constitutional Court. This court has the power of judicial review over acts of the legislature. It also decides on the legality of executive ordinances and, to that extent, provides an additional safeguard for the protection of individual rights.⁹

⁸ A strong plea for the creation of a Civilian Ombudsman to be elected directly by the people was made by the philosopher Karl Jaspers in his penetrating political essay "Wohin treibt die Bundesrepublik?" (Munich, 1966).

⁹ Ludwig Adamovic, *Die Bundesverfassungsgesetze* (Wien, 1953), p. 159

THE SOVIET UNION

One of the most pressing tasks of governments everywhere is the control of public administration. The manner in which this problem is approached and the type of agency to be entrusted with the task of controlling the legality and performance of public authority reflect the political culture, the purposes, and the philosophy of the government of every polity.¹⁰

As noted above, in Germany, as in most civil-law countries, the machinery of control is entrusted to administrative courts whose members have the same status and independence as the judges of ordinary courts. In common-law countries, control is exercised both by the ordinary courts and by administrative tribunals and agencies. In the Soviet Union, this function is performed by a special branch of the Executive itself.

The Soviet solution to the problem of control has its roots in the backwardness of Russia's prerevolutionary legal institutions, in the absence of a strong tradition of judicial supervision over administrative acts, and in the autocratic character of Czarist Russia. These historic factors were reinforced by the determination of the new revolutionary regime to undertake a total transformation of Russian society, a radical change incongruent with constitutional restraints. "The new proletarian state was ready to set limits not to itself but to its citizens."¹¹ The whole thrust of the Soviet system of control over public

authority thus aims not so much at the protection of individual rights, as at the safeguarding of the social order against arbitrary and irregular operation of governmental institutions. It nevertheless provides the Soviet citizen with genuine and substantial opportunities to voice his grievances, if for no other reason, because the complaining citizen serves as an important source for obtaining information on departures from legality, on arbitrary acts, and on the abuse of power by agencies of public administration. The absence of a free press, and other factors contributing to suppression and distortion of feedback in the Soviet Union, serve only to underline the importance of complaints for the system. As a consequence of this need of the government for information, the Soviet citizen is by no means wholly defenseless in the face of decisions by public officials.

The Prokuratura

The branch of the Executive charged with the duty of checking on the legality of the operations of the other governmental agencies, and the institution through which most Soviet citizens' complaints against public officials are channeled, is the Soviet Prokuratura or Procuracy.

The Soviet constitution provides that "supreme supervisory power over the strict execution of the laws by all ministries and institutions subordinated to them, as well as by public officials and citizens of the U.S.S.R., is vested in the Procurator General of the U.S.S.R." The "supreme supervisory power" of the Procuracy covers a multiplicity of tasks and functions. The office combines, it has been stated, "the functions of the United States Attorney General's Office, Congressional investigating committees, grand jury and public prose-

¹⁰ Brian Chapman, *The Profession of Government: The Public Service in Europe* (London, 1959), pp. 181-182.

¹¹ A. L. Malitskii (ed.), *Text and Commentary: Civil Codes of the Soviet Republics, 1927*, quoted in V. Gsovski and K. Grzydoski, *Government, Law and Courts in the Soviet Union* (New York: Frederick A. Praeger 1959), p. 26.

cutor."¹² The Procuracy also checks on the legality of orders and regulations enacted by Soviet administrative organs and endeavors to ensure the conformity of the entire system of administration to the law of the land.

The institution of the Procuracy has its roots in the early eighteenth century. When the Bolsheviks, in 1922, established the Procuracy, they reached back into the Russia before the 1802 constitutional reforms of Alexander I and revived an office created by Peter the Great, to be the "eyes of the Tsar." Unwilling to entrust supervision over the legality of administrative acts to the courts, yet keenly aware of the need for a centralized agency of control independent of local influences, Lenin himself had urged the appointment of Procurators for all individual Soviet republics.¹³ In 1933 a Procurator General of the Soviet Union was established, and in 1936 the "Stalin Constitution" exempted the office from all supervision by the Ministry of Justice and established a strictly separate federal hierarchy of Procurators. The constitution provides for the appointment of the Procurator General by the Supreme Soviet for a term of seven years. He, in turn, appoints, directly or indirectly, the republican, regional, and local Procurators.¹⁴

Soviet law distinguishes two principal functions of the Procuracy. One is the "supervisory power over the administration of justice" largely related to criminal prosecution but including investigation and indictment prior to trial. The other function is its "general supervision" over the legality of administra-

tive acts, in order to guard against abuses of the law.¹⁵ In this second function, the supervisory powers of the Procuracy are not limited to judicial cases, but extend to all agencies of the government from individual ministers down to local authorities, not including, however, supervisory powers over acts of the Council of Ministers of the Soviet Union.¹⁶ The Procurator, thus, is the guardian over the observance of the law in a very broad sense. He must not only detect violations of the law, but "must in due time take measures to rectify any violations."

Under Stalin, the "general supervisory powers" of the Procuracy remained in the statutes and lawbooks. The Procurators, however, were totally ineffective against the illegalities and the arbitrariness of the dictatorship. The lack of true independence of the office, as part of the Executive, subject to party directives and discipline, was, to a large extent, responsible for its deplorable inadequacy. Because of the operative principle of party supremacy over all state organs, the Procuracy proved to be helpless to enforce Soviet law against the wishes of the party leadership itself.

After Stalin's death, the "general supervisory power" of the Procuracy was strongly re-emphasized. A statute on Procuracy supervision, adopted in 1955, codified existing scattered provisions and strengthened the Procurators' powers, by abolishing the jurisdiction of the separate Procuracy of the Ministry of State Security and subjecting the state security agencies to the control of the Procuracy of the Soviet

¹² H. J. Berman, *Justice in the U.S.S.R.* (Cambridge, Mass.: Harvard University Press, 1963), pp. 238-247.

¹³ Glenn G. Morgan, *Soviet Administrative Legality* (Stanford, Calif.: Stanford University Press, 1962), pp. 28-43.

¹⁴ Gsovski and Grzydowski, *op. cit.*, p. 556.

¹⁵ *Ibid.*, pp. 548-555.

¹⁶ "Whether it has such powers over the acts of republican councils of ministers is debated by Soviet jurists" (Berman, *op. cit.*, p. 245). See also S. G. Berezovskaya, *Prokurorsky Nadsor Za Zakonnosty u Pravovykh Aktov Organov Upravleniya U.S.S.R.* (Moscow, 1959).

Union. Post-Stalin governments have made it quite evident that they intend to utilize "general supervision" over public agencies at all levels. "The Soviet regime in the post-Stalin period wishes stability of its laws and depends partially on the Procuracy to ensure observance of them."¹⁷ The new vigor lent to the Procuracy in an effort to restore respect for law has undoubtedly strengthened personal rights against invasion by officials. Whether the Procuracy could prevail, however, against a new wave of arbitrary power imposed by the party leadership is open to grave doubts.

The Procuracy discharges its revitalized "general supervision" function in a twofold manner. First, in exercising review over subordinate legislation, the Procuracy scrutinizes all orders, decrees, and regulations for their validity and consonance with the constitution and with laws or decrees of higher bodies. In case of invalidity, Procurators may "protest" to the organ immediately superior to the original issuer.¹⁸ Secondly, it is the duty of the Procuracy to supervise all official acts. This entails checking on performance and implementation of laws.¹⁹ Procurators are charged by law "to detect and rectify violations" in order to ensure the conformity of the entire administration to the law. They can do so on their own motion but are obligated "to receive and act upon complaints by private persons" Complaints thus occupy much of the attention of individual Procurators.²⁰ While Procurators can neither

annul illegal administrative acts nor issue orders to administrators, they are duty-bound to intervene and, if necessary, to report such acts to higher organs. They can also indict and prosecute officials responsible for grave derelictions, a power used with restraint, but one that nevertheless must enhance the persuasive force of their interventions.

It is, of course, in the exercise of the power of "general supervision" that the Soviet Procuracy, to some extent, at least, resembles the Scandinavian Ombudsmen. And there are indeed parallels in their charge of scrutiny over statutory deficiencies, their duty to inquire into grievances, to "receive and act upon private complaints," and their common task of obtaining redress of grievances through protest, advice, and appeal to higher administrative organs, without the exercise of direct power over public officials.²¹ Both have the right to demand all official documents that might affect the outcome of an investigation into legality. Both undertake tours of inspection and check the press for evidence of administrative violations of the law.²²

Although their functions are strikingly similar, there exist, nevertheless, essential differences as to constitutional relationship, political environment, and purposes.

While Scandinavian Ombudsmen exercise control over public administration on behalf of parliament, the Soviet Procuracy is a branch of the Executive. Beyond that, its function as unconditional guardian of legality is severely compromised by the Procuracy's subordination to party guidance and party discipline.

Moreover, the Soviet regime's primary purpose for favoring the Procuracy's power of "general supervision" is the

¹⁷ Morgan, *op. cit.*, p. 130. See also J. N. Hazard and I. Shapiro, *The Soviet Legal System* (New York: Oceana Publications, 1962), pp. 48-49.

¹⁸ Gsovski and Grzybowski, *op. cit.*, p. 553.

¹⁹ See Morgan, *op. cit.*, pp. 133-140.

²⁰ Walter Gellhorn, *Ombudsmen and Others: Citizens' Protectors in Nine Countries* (Cambridge, Mass: Harvard University Press, 1966), pp. 355-362.

²¹ *Ibid.*, p. 367.

²² Morgan, *op. cit.*, p. 4.

maintenance of control over its administrative apparatus and of administrative conformity to the enactments of the government. It provides institutionalized channels for individual complaints as a means for obtaining information on departures from legality, primarily in order to regulate administrative action, and only secondarily to provide redress for violations of individual rights.²³ This is not to say, however, that the activities of Soviet Procurators lack actual or—especially—potential benefit to the aggrieved Soviet citizen.

As Walter Gellhorn has noted, it is, perhaps, not so much the character of the Prokuratura itself, but its virtual isolation that is responsible for some of its inadequacies, for the Soviet Procuracy lacks the supports available to Scandinavian Ombudsmen. The activities of the latter are intended to supplement a highly developed system of judicial review over administrative acts, exercised by ordinary law courts and specialized administrative courts.²⁴ Soviet procedures, by contrast, provide only scant access to courts. The major responsibility for challenging the legality of administrative acts rests with the Procurator who, alone, determines the advisability and manner of his intervention. The complaining citizen is thus separated from direct participation in the deliberations over his grievance. Direct and generous access to courts for aggrieved individuals would, undoubtedly, improve guarantees of "socialist legality."

Suggestions aimed at preserving the "general supervision" of the Procuracy, while at the same time increasing the scope of review by Soviet courts over actions of public servants, were recently

advanced by Soviet scholars.²⁵ Repeated pledges by both party and government to strengthen "socialist legality" and the growing reverence for stability exhibited by the people of the Soviet Union appear to favor such a development.

COMMUNIST EAST EUROPE

Prior to the Second World War, most East European states used a system of special administrative courts, patterned after that of Austria. Thus, unlike the system in the Soviet Union, judicial protection against unlawful acts of the administration was a familiar feature of their judicial systems. Within the limits set by such charges as slowness of procedures, formalism, and bureaucratic orientation, which were generally levied against the administrative courts, they provided reasonably adequate control of administrative processes.

With the advent of Communist rule, these administrative courts were abolished, and the regimes proceeded to adapt their judicial systems to the Soviet model. Proceeding gradually and with caution, all Communist countries eventually established the office of the Procuracy. (Albania, in 1946; Bulgaria and Czechoslovakia, in 1952; Hungary, in 1953; Poland, in 1950; Romania, in 1952; and Yugoslavia, in 1946.)²⁶ The office, as finally adopted,

²⁵ See, for example, M. S. Strogovich, "Teoreticheskie Voprosy Sovetskoi Zakonnosti" (1956), as quoted in Morgan, *op. cit.*, pp 250-251.

²⁶ Albania, Law No. 274, *Gazeta Zyrtare*, 1946; Bulgaria, Law No. 92, *Izvestia na Prezidiuma na Narodnoto Sbranie*, 1952; Czechoslovakia, Law No. 65, *Sbírka Zákonů Republiky Československé*, 1952; Poland, *Dziennik Ustaw*, No. 38, 1950; Hungary, Edict No. 13, *Magyarországi Rendeletek Tára*, 1953; Romania, Law No. 6 of June 19, 1952, republished in *Buletinul Oficial*, 1954, and Yugoslavia, Law No. 426, *Službeni List DFJ*, 1946. (Albanian, Bulgarian, Czechoslovak, Polish, Hungarian, Romanian and Yugoslav Official Law Gazettes.)

²³ Kazmierz Grzybowski, *Soviet Legal Institutions* (Ann Arbor: University of Michigan Press, 1962), pp. 171, 239

²⁴ Gellhorn, *op. cit.*, p. 369.

incorporated, with minor differences, all important features of the Soviet Prokuratura: a streamlined hierarchy of local procurators, headed by a Procurator General, charged with both public prosecution and "general supervision of administrative legality." Like their Soviet prototype, East European Procurators were to be guardians of judicial and executive legality and protectors against arbitrary acts of public officials.²⁷ The achievements of the transplanted Procuracy, however, have proved to be much less than spectacular.

The undistinguished performance of East European Procurators has been due to a number of factors. First, the imported institution was grafted onto an existing structure of public prosecutors, whose duties in the past had been largely confined to criminal prosecution. Transformed into Procurators, they persisted in their accustomed tasks of law enforcement. Second, the model introduced into East Europe was the tarnished Stalinist Prokuratura, which functioned almost exclusively as an instrument of terroristic repression. Unfamiliar with the "general supervision" duties of Procurators, East Europeans regarded with suspicion the close relationship of the Procurator with the "ruling party" and its repressive activities. They perceived Procurators as agents of party rule and of intimidation rather than of legality. After the death of Stalin, and with the new stress on "socialist legality," most East European Communist regimes promulgated new statutes that attempted to emphasize and strengthen the "general supervision powers" of the Procuracy.²⁸ A new

statute on the Procuracy in Czechoslovakia, for example, broadened the supervisory power of the Procurator General over penal institutions and the detention of persons by the police.²⁹

This concern with the effectiveness of the Procuracy as guardian of legality has had some positive results, but evidence suggests that the office is far from having established a reputation as a reliable protector against illegal and improper acts of public officials. The lagging performance of the Procuracy has given rise to uncomplimentary comparisons with pre-World War II administrative controls and procedures in East European countries. Yugoslavia alone among the Communist regimes, in April 1963, adopted a new constitution that provided effectively for broad judicial review. According to Article 239 of the Yugoslav constitution, judicial review of "administrative decisions" is exercised by special administrative chambers of each of the six republican Supreme Courts, established in all six republics of the Federal Republic of Yugoslavia, and by a three-judge administrative chamber of the federal Supreme Court. The volume of administrative litigation handled by the courts has reached considerable proportions, but review extends only to final adjudicated administrative decisions.

Of potentially much greater importance is, however, the creation of a Yugoslav Constitutional Court charged with the safeguarding of constitutionality and the securing of legality in accordance with the constitution (Article 146). The federal Constitutional Court is responsible for resolving disputes between the federation and the republics. But the court must also protect "the

²⁷ See, for example, Juraj Hromada, *Prehľad československých štátnych orgánov* (Bratislava, 1955).

²⁸ For Poland, e.g., see Poland, Code of Administrative Procedure, (Articles 143-150), *Dziennik Ustaw*, No. 30, 1960. For Hungary, see Hungary, Edict No. 9 on the Procurator's

Office, as published in *Magyar Jog*, No. 1, 1960, pp. 57-65.

²⁹ Czechoslovakia, Law No. 65 of December 19, 1965, *Sbírka zákonů Republiky Československé*, 1966

system of workers' self-management and basic freedoms, whenever they are infringed by edicts or official acts and no judicial protection has been afforded" (Article 241 of the constitution and Article 36 of the law on the Constitutional Court).⁸⁰ From the very first session, the Constitutional Court has demonstrated full acceptance of the responsibility to adjudicate complaints against administrative acts for violations of the constitution. It decided in favor of private owners in a dispute over the power to lease business premises exercised by a communal assembly without the owners' consent.⁸¹ In a recent decision, acting on the request of a number of citizens and economic organizations, the court ruled against the expropriation of land for purposes of rezoning in urban settlements, and annulled regulations providing for such expropriations passed by the republican Executive Councils of Serbia, Croatia, and Montenegro, holding these regulations contrary to provision of the constitution.⁸²

At the same time, Yugoslav public prosecutors have retained their role as guardians of legality. Relieved of "general supervision" over administrative legality, they are still charged with the right and duty to intervene against administrative abuses. They function on a much restricted scale, however, and most of their former responsibilities are now discharged by courts exercising judicial review of administrative acts.

The other East European countries have, so far, failed to follow the Yugoslav example. Bulgaria (like the Soviet Union) has no comprehensive Code of Administrative Procedures. Provisions for the review of administrative acts by

Bulgarian courts are limited to specific cases.⁸³

Similarly, the Polish Code of Procedure in Administrative Law, adopted in 1960,⁸⁴ and the Hungarian Code of Administrative Procedure⁸⁵ provide only narrow access to judicial organs in matters pertaining to administrative acts and decisions.⁸⁶

The Romanian constitution of 1965 contains specific provisions granting the right to claim damages in cases where administrative acts violate legality and the rights of the individual (Articles 35 and 96). An implementing bill, passed by the Romanian National Assembly in July 1967, provides for judicial examination of the legality of administrative acts. The statute, however, exempts administrative acts "concerned with national defense, with state security and with public order" from judicial supervision.⁸⁷ The new Romanian provisions, nonetheless, augment the right to contest the legality of administrative acts. They are, however, too recent to permit any assessment of their effectiveness.

New Rules of Administrative Procedure enacted in Czechoslovakia⁸⁸ have restored some beneficial features contained in the prewar code. They provide for appeals within the administrative hierarchy, permit the exclusion from adjudication of officials biased against claimants, and grant litigants full access to documents. They also re-emphasize the role of Procurators as guardians

⁸³ See P. S. Stainov and A. S. Angelov, *Administrativnoe Pravo Narodnoi Republiki Bolgarii*. Translated into Russian. (Moscow, 1960).

⁸⁴ Poland, *Dziennik Ustaw*, No. 30, June 25, 1960.

⁸⁵ Hungary, *Magyar Közlöny*, June 9, 1957.

⁸⁶ Eq. Insurance and Pension Tribunals, and others

⁸⁷ *Scanteia*, July 27, 1967, Bucharest

⁸⁸ Czechoslovakia, Law of June 29, 1967, *Sbírka Zákonů Republiky Československé*, No. 71, 1967

⁸⁰ The constitution, further, established six regional constitutional courts at the republican level with similar responsibilities

⁸¹ *Borba*, October 6, 1964, Belgrade.

⁸² *Radio Zagreb*, July 6, 1967, quoted in RFE research paper of July 7, 1967.

of legality. Judicial review of administrative decisions remains, however, as narrowly restricted as before. It is applicable solely to claims pertaining to pensions and to censorship exercised by the Central Administration of Publications. The enactment of the new code had been preceded by a "great debate" concerning the desirability of a return to some form of judicial review. A special panel of seventeen leading Czechoslovak jurists strongly recommended review of administrative actions by independent and impartial tribunals.³⁹ The government and the party, so far, have refused to yield. Czechoslovak jurists argue that demands for the establishment of impartial courts as necessary guarantors of the secure enjoyment of rights do not preclude the retention and improvement of other

avenues of administrative control, "such as general supervision by the Procuracy, administrative appeals and the citizen's right to lodge complaints against officials."⁴⁰

The strengthening of "socialist legality" in East Europe undoubtedly requires reforms that go beyond the establishment of judicial controls over public authority. Impartial judicial review, after all, is contingent upon the presence of an independent judiciary.

In the last analysis, it is not only the choice of proper institutions, but also a philosophy of government and traditions supporting them, which provide secure protection of individual rights.

³⁹ *Michal Lakatoš* in *Kulturný Život* [Periodical of the Slovak Writer's Union], March 3, 1967, Bratislava. See also Pavel Peska, *The Future of Constitutional Law and Constitutionalism*. Translated in RFE Czechoslovak Press Survey, No. 1806, 1966.

⁴⁰ *Právník*, No. 7, Prague, 1967

The British Parliamentary Commissioner for Administration

By GEOFFREY MARSHALL

ABSTRACT: Discussion of the "redress of grievances" in Britain has not, until recently, distinguished between the control of maladministration in a narrow sense and the review of allegedly unjust or unreasonable decisions which do not result from faulty operation of decision procedures by officials. A distinction of this kind was made by the Whyatt Committee in 1961 and, despite criticism, was embodied in the Labour Government's legislation. The Parliamentary Commissioner Act has been in operation since April 1, 1967. It relates only to injustice caused by maladministration in central government departments, and all complaints must be submitted through the agency of members of the House of Commons. These limitations of scope and purpose remain open to debate. They raise the general question whether Ombudsman machinery should bring scrutiny to bear on complaints which arise from policy and legislative decisions.

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MALADMINISTRATION in government works injustice. But can all injustice to individuals caused by government be classed as maladministration? Since maladministration is a term of imprecise meaning, various answers to this question are possible. Unjust decisions can arise for a variety of reasons—as the result of, for example, unreasonableness, miscalculation, mistaken application of rules, improper discrimination, prejudice, bias, neglect of duty, inattention, delay, incompetence, perversity, turpitude, and arbitrariness. Most of these types of fault¹ have been mentioned by English-speaking draftsmen or politicians when discussing the need for Ombudsmen to redress administrative “grievances” (another remarkably vague idea). All of these faults, if they were committed by administrators, could conceivably be called forms of maladministration. Some of them, however, could arguably arise without any abuse of the administrative process, and therefore, in a sense, without maladministration, if they were the results of conscientiously applied, but mistaken or misguided or unreasonable, governmental policy-decisions or legislative enactments.

Two important and necessarily connected questions therefore arise in designing Ombudsman machinery. One is whether government policy and legislation should be amenable to scrutiny. The other is whether the machinery should act both as a control of maladministration or administrative abuses and as an avenue of securing or recommending reversal, on their merits, of allegedly wrong or unwelcome discretionary decisions, at whatever level they are taken and whether or not they

embody abuses or improper use of the decision procedures leading up to the decision.

Much discussion of “redress of grievances” in the United Kingdom has, until recently, ignored these distinctions. They are possibly of greater psychological significance in a parliamentary and Cabinet system of the British variety than in a system in which the Executive and legislature are already subject to judicial review applying a due-process limitation whose bite is partly procedural and partly substantive. In the United Kingdom, a sharp distinction has, in theory, been maintained between law and policy; and within the procedural restraints imposed by law, ministers and their departments have been free to exercise discretions conferred by statute, without any substantive check upon the merits or reasonableness of their policy-decisions except those imposed by the fear of political attacks in parliament and the press and the proximity of the next general election. Since ministers are strong, backed by a disciplined majority in the legislature, and used to having their way, it has always been clear (though not always clearly spelled out) that there would be some difficulty in defining the jurisdiction of any authority set up to provide redress of administrative grievances.

THE FRANKS COMMITTEE SURVEY

Some account of the background situation as it has stood in the last decade may be appropriate. In 1957 the Committee on Administrative Tribunals and Inquiries, under the chairmanship of Sir Oliver (now Lord) Franks, surveyed those areas of administration where machinery has been provided for official decisions to be contested before independent administrative tribunals or for objections to be registered at public inquiries. The latter are, for the most

¹ See, for example, United Kingdom, House of Commons, *Debates*, Vol. 734, col. 51 (1966), and compare S 19 of New Zealand, “Parliamentary Commissioner (Ombudsman) Act,” 1962.

part, to be found in the field of town planning, compulsory purchase of land for urban development, and road- and air-transport licensing. They are conducted by inspectors whose findings are not legally binding on, but are usually accepted by, the relevant minister.² The Franks Committee's proposals improving and regularizing procedures in these fields were largely carried out in the Tribunals and Inquiries Act of 1958 which *inter alia* set up a Council on Tribunals to supervise the working of inquiry and tribunal procedures.³ The Franks Committee itself pointed out, however, that it had not been asked to examine the whole field of relationships between individuals and public authority, but only that part of it in which statutory opportunities for appealing against the merits of governmental action already existed. Outside this sphere were many official activities whose merits could not be contested before any tribunal or public inquiry.

THE WHYATT REPORT

In 1961, Sir Oliver Franks stressed this point in writing the Foreword to the report of Sir John Whyatt's unofficial committee,⁴ which was set up to examine the possibility of adopting the Ombudsman system—inasmuch as its Scandinavian operations had recently been reported on with varying degrees of clarity and inasmuch as the system had been successfully grafted onto New Zealand's parliamentary system in 1962.

² In housing and town planning, the inspector's findings at public local inquiries have, in the past five years, been accepted in 97 per cent of the cases. See Great Britain, Cmd 3333, 1967, "Town and Country Planning."

³ For an account of the Council's work, see J. F. Garner, "The Council on Tribunals," *Public Law*, 1965, p. 321.

⁴ Sir John Whyatt (ed.), *The Citizen and the Administration: The Redress of Grievances* (London: Justice—British Section of the International Commission of Jurists, 1961).

Prima facie, the task which seemed to be required of the putative British Ombudsman was that implied by Sir Oliver, namely, the plugging of the gap in the citizen's array of weapons against officialdom so as to provide him with the means of appealing against, or objecting to, administrative decisions where parliament had failed to provide any machinery. Lord Shawcross, chairman of "Justice"—the British Section of the International Commission of Jurists, and a former Attorney General, echoed the belief that "there always ought to be some appeal against administrative and executive decisions."⁵

The Whyatt Report itself, however, did not allot this full-blooded role to the proposed Ombudsman. "A permanent body, to be known as the Parliamentary Commissioner . . . [they recommended] should be established . . . to receive and investigate *complaints of maladministration*." It is worth noting that there is in the New Zealand Ombudsman statute, which was available to the Whyatt Committee in bill form in 1961, no attempt to confine the New Zealand Commissioner to the investigation of maladministration. He is permitted to inquire into the possibility that an administrative act is "unreasonable," "unjust," "oppressive," "discriminatory," or "wrong," either in itself or because it stems from unjust, oppressive, or discriminatory legislation. In image, he seems to be the very thing that Lords Franks and Shawcross were looking for.

But the Whyatt Committee itself failed to take the hint. They were in many ways impressed, and (in the light of hindsight) possibly overimpressed, by the need to accommodate the alien institution to the familiar outlines of the Cabinet system and to the prejudices of ministers and Members of Parliament (MP's). They suggested that even in Denmark and Sweden, the jurisdiction

⁵ Foreword, *ibid.*, p. xiii.

of the Ombudsman to investigate the way in which a civil servant had exercised his discretion was a limited one. In principle, they said, complaints against officials might be divided into two categories. First, there is the complaint that, although the official has not abused his power, or been guilty of bias, negligence, or incompetence, the resultant decision is inappropriate or unwelcome and deserving of review. Second, there is the complaint against an act of maladministration which is essentially an accusation of misconduct against officials and a plea for investigation into an alleged fault in the way in which a civil servant or department has exercised power. The Committee suggested that the appropriate remedy for lack of opportunities for appeal was more tribunals. But they also conceded that there would be areas in which the government would be unwilling to set up independent tribunals and would wish to leave ministers and their officials with unfettered discretion.

Here, it might be thought, they might have suggested a role for the Ombudsman *both* as an investigator of maladministration and as an informal source of review on the merits, seeking to persuade officials, where necessary, that a discretion had been exercised without impropriety, but with the wrong result. But the Committee carefully refrained from making such a recommendation. Though they illustrated the need for an Ombudsman with several examples of official obduracy which were clearly not examples of maladministration, they excluded the Ombudsman, in their recommendations, from considering any such cases, by providing that he should only consider and investigate complaints relating to "maladministration." Giving first priority to the need to secure parliamentary acceptance of the Ombudsman machinery, the Committee were prepared to concede that the suggested

Commissioner should not investigate a complaint except with the consent of the department or minister concerned, that he should not have access to internal departmental minutes, and that all complaints should be delivered to him via MP's.

THE LABOUR PARTY'S PROPOSALS

Despite the Whyatt Committee's abundant caution, Mr. Harold Macmillan's Conservative Government proved ostentatiously uninterested in the Ombudsman scheme. Possibly the Cabinet had other things on its mind between 1961 and 1964, including the Common Market, the succession to the Conservative leadership, sundry spy scandals, and the affair of Miss Christine Keeler and Mr. John Profumo. It is just conceivable that we owe the Ombudsman to Miss Keeler, for besides, in some degree, discrediting the Macmillan administration, the affair compelled the Prime Minister to set up a one-man inquiry under Lord Denning, who, for several months, became an *ad hoc* Ombudsman, and produced a report whose literary qualities and exotic content may have persuaded some voters that the Ombudsman idea might at least have a certain entertainment value.

In 1963-1964, the Ombudsman scheme was one of a number of ideas which might have been expected to appeal to an opposition party seeking power. The idea of "humanizing the administration," like "getting the country moving again," could be effectively used on election platforms without allotting to either idea any identifiable content. At this stage, however, "Justice," which had sponsored the original Whyatt inquiry, submitted for governmental consideration a more detailed set of revised proposals in the form of a draft bill based upon a reassessment of the Whyatt scheme in the light of the now successfully working

New Zealand legislation. The draft followed the general outline of the New Zealand legislation, dropping the earlier provisos that there might be ministerial vetoes on the Parliamentary Commissioner's investigations and adopting the proposal that the Commissioner should have access to all files and internal departmental minutes. On the other hand, it was still thought prudent to maintain the restriction on open access to the Commissioner and to propose that all complaints should be forwarded by MP's.

In the light of later developments, it is worth remarking that on the difficult question of jurisdiction, what was proposed was very much nearer to the widely drawn terms of reference of the New Zealand scheme than to the earlier Whyatt Report plan for an Ombudsman confined to the scrutiny of maladministration. The significance of the distinction was not at all clear when, having won the 1964 General Election, the Labour Government produced, after some delay, a White Paper.⁶ The "Justice" draft bill had framed the Commissioner's role as being "to investigate complaints as to any decision, recommendation, act or omission affecting the complainant in his personal capacity" and to consider whether it might be "contrary to law, unreasonable, unjust, oppressive, discriminatory," or in accordance with a rule of law exhibiting similar defects, or "showing a failure to conform with a proper standard of conduct on the part of a Departmental official."

No account of the internal civil service debate which took place on the proposed Ombudsman scheme has been published. It is clear enough, however, that there were differences of view

amongst civil servants and that somebody won an infamous victory. The scheme for the redress of grievances which emerged in the White Paper of October 1965 was one defined in terms of the removal of injustice arising "as a result of *faulty administration*." It would not be for the Commissioner, the White Paper said, "to criticise policy or to examine a decision on the exercise of discretionary powers unless it appears to him that the decision has been affected by a fault in administration."

Other restrictions were evident. The ambit of inquiry was to be confined to central government, excluding local government administration and the police. Although, the White Paper claimed, the scheme would, in principle, cover "the whole range of relationships between the private person and the central government," there were to be exceptions. Only ministerial departments were to be included, and not public corporations (controlling transport, electricity, gas, steel, and airways). Also to be excluded were the exercise of powers in the administration of colonial territories, the investigation of crime, the commercial relationships of departments with customers or suppliers, the making of appointments by ministers, and disciplinary matters in the armed forces. All these restrictions were embodied in the bill laid before parliament in February 1966.⁷

THE DEBATE ON THE PARLIAMENTARY COMMISSIONER BILL

In its original form, the bill provided that there should be a Parliamentary

⁶ Great Britain, Cmd. 2767, October 1965, "The Parliamentary Commissioner for Administration" (London: Her Majesty's Stationery Office, 1965)

⁷ The bill received its first reading on July 20, 1966, and the Government earned some criticism by designating the first holder of the office (Sir Edmund Compton) in August, before the passage of the bill through parliament, which was not completed until early in 1967. The Commissioner began operations on the first of April (All Fools' Day) in 1967

Commissioner for Administration who should have power to investigate

any action taken by a government department or other authority . . . being action taken in the exercise of the administrative functions of that department or authority in any case where a written complaint is duly made to a member of the House of Commons⁸ by a member of the public who claims to have sustained injustice in consequence of maladministration.

Introducing the bill in its second reading in the House of Commons on October 18, 1966, the Lord President of the Council, Mr. Richard Crossman, said that it was designed to protect the citizen against "bureaucratic maladministration," a term which he did not think it possible to define. It comprised such faults as bias, perversity, neglect, and incompetence. He did not mention such Antipodean terms of art as "unreasonable," "unjust," "oppressive," and "wrong."

Before long it began to be clear, or at least clearer than it had been, that doubt existed as to which of two sorts of Ombudsman Mr. Wilson and Mr. Crossman had in mind. Fright was taken on both sides—on the Government's that dubiety might be resolved too generously and on the Opposition's that it might be resolved in the opposite sense.

On November 1, 1966, when the bill was considered in Committee,⁹ Mr. William Roots moved an amendment to provide that the Commissioner's powers to investigate government action should extend to "any exercise of discretionary powers and any decision to use such

powers." There followed an interesting debate on the nature of "discretionary powers" and "maladministration." The bill should make clear, Mr. Roots suggested, that the Commissioner should be able to examine discretionary decisions. That did not mean that he should form a fresh opinion on the disputed issue, but that he should be able to see whether the person who had made the decision had had before him all the material on which to base the decision or had had before him erroneous or incomplete material. Sir Hugh Lucas-Tooth, in a somewhat ambivalent speech, said that maladministration was not a "term of art." It could include misfeasance and corruption and, less seriously, negligence and carelessness. But it also might stretch, he thought, to cover "faulty judgment," where there had been nothing in the nature of misfeasance or negligence "in the real sense," but where a decision had been reached which ought to be reversed because "any person, on looking at it, would say it was a bad decision." This, it is clear, is the crux of the argument. Is it a "fault" in the decision process that a decision is (as the New Zealand Ombudsman might say) "wrong" without any other fault being identifiable? Fault or wrongness of this kind could only exist (if improper evidence and bias are ruled out) from an inappropriate weighing of evidence or a correct application to the facts of a harsh or inequitable rule or policy. In the first case, assuming that there is evidence on which the impugned decision could be reached, it might be possible to say that the decision was faulty only if the weighing of the issues resulted in a decision which was "very wrong" or "utterly unreasonable." This could conceivably be classed with decisions taken without evidence at all. But the slide from "properly arrived at but, on balance, wrong" to "improperly arrived

⁸ The House of Lords has been frozen out of the grievance business. But, no doubt, someone will be found amongst the 630 members of the lower chamber to give their lordships a helping hand in transmitting complaints.

⁹ Great Britain, House of Commons, Standing Committee B, November 1, 1966, col 58 ff.

at because reached without any adequate evidence" is a delicate and difficult one where subjective ideas about policy constitute at least part of the "evidence" in question. But if any such decision is to be made, discretionary decisions must, at least, be examined by anyone who is to investigate "faulty" decisions. Paradoxically, however, Sir Hugh Lucas-Tooth did not wish to bring administrative decisions which were alleged to be faulty in this sense within the scope of the legislation, since to do so would, he believed, involve making the Commissioner "a court of appeal for every single ministerial act." An instance where a minister's legally proper but unreasonable decision not to backdate a civil servant's pension after his ill-health was belatedly discovered to be attributable to his service provided an example. It was not misfeasance or negligence. But a great many people would say it was quite unfair. Nevertheless, to open such decisions to review would lead to an enormous burden on the Commissioner. He was not, in any event, a proper person to reconsider Government decisions or impugn a minister's motives. That should be done in the House of Commons.

This view was shared by the Government. The Financial Secretary to the Treasury (Mr. Niall MacDermot) emphasized that it was, indeed, not the intention to constitute the Commissioner as a court of appeal for "the whole host of administrative decisions which Parliament had decided should not be the subject of an appeal." On the other hand, he was prepared to concede that the notion of maladministration could be made to cover the decision on a matter of policy of a minister or an official, provided that some material evidence existed for believing that the decision had not been taken on the basis of the facts but on irrelevant considerations. As to maladministration, the

Government had not attempted to define it precisely. "We found," he said, "that whatever attempt we made to reach a decision, someone always thought of some other characteristic which amounted to maladministration." He opposed Mr. Roots' amendment to extend the bill, which was then put to the vote and rejected.

At the Report stage, the Government aroused more suspicions and confounded confusion even further by moving an amendment to the bill which specifically provided that nothing in it should authorize the Commissioner "to review by way of appeal any decision taken by a government department or other authority in the exercise of a discretion vested in that department or authority." The amendment was not well received. Mr. Quintin Hogg for the Opposition declared that they had been misled. He put it, indeed, rather more strongly. As schoolboys, he said, they had had an evocative expression for a swindle—a swiz. "I have always regarded the Ombudsman," he said, "as a swiz, and now we have arrived at the moment of truth. . . . The Bill was always a swiz and now this is written into it."

This view of the matter was shared by supporters of the bill, and they expressed misgivings similar to, if more amiably phrased than, Mr. Hogg's. In response, the Government agreed to a further variation in the critical section of the bill. What they really meant, it was explained, was not that the Commissioner should be ruled out from *examining* any act simply by the assertion of a minister that it embodied a discretion. They did not want to exclude the Commissioner's inquiry wherever there was a discretionary decision. The intention was to allow any allegation to be investigated whether or not it related to a discretionary power, but to preclude the Commissioner from reviewing the merits of such a decision,

if *after* examination he considered that it did not reveal maladministration. Accordingly, a further amendment embodying this philosophy was introduced while the bill was under consideration in the House of Lords, and this form was finally accepted by the House of Commons. The clause now stands as Section 12(3) of the Parliamentary Commissioner Act of 1967. It says:

It is hereby declared that nothing in this Act authorises or requires the Commissioner to *question the merits of a decision taken without maladministration* by a government department or other authority in the exercise of a discretion invested in that department or authority.

THE PARLIAMENTARY COMMISSIONER ACT, 1967

The Act in its final form embodies the restriction of access to the Commissioner originally envisaged by the Whyatt Committee. All complaints must first be submitted by an MP. They must face a battery of nine other jurisdictional tests resulting from the Act. Applying these tests, the Commissioner then considers whether the complaint (normally a written statement by the complainant) falls within his competence, and makes a preliminary report to the MP on its acceptability. The final report is also made to the MP, who also decides in what terms the result of the investigation is communicated to the complainant and to the press.

Unlike the New Zealand Ombudsman, the Commissioner is appointed by the Crown, to hold office during good behavior, and may be removed from office by the Crown after addresses from both houses of parliament.

The departments and authorities subject to investigation are listed in an appendix to the Act. They comprise all the major central government depart-

ments, but not the independent statutory public corporations, the police, local government authorities, or the armed services (though the Ministry of Defence is included). A further section of the Act excludes investigations of action taken in international affairs, in territories outside the United Kingdom, and action taken in relation to the investigation of crime, or with respect to passports or state security, or with respect to the contractual or commercial transactions of government departments. The Commissioner conducts his inquiries informally and in private. He may require the production of any document or information relevant to his investigation, and the privilege of the Crown to refuse disclosure of documents or other evidence does not apply. He may not, however, see any such papers as relate to the proceedings of the Cabinet or of Cabinet committees. If he thinks, as a result of his investigations, that maladministration has occurred, he may, after giving a copy of his report to the department concerned and offering an opportunity to comment on it, lay a special report before parliament embodying his conclusions, in addition to his routine annual report. A notable restriction on his reporting power, however, is that a minister can veto, by notice in writing, the production in the report of any particular document or information whose disclosure would, in the minister's opinion, be "prejudicial to the safety of the State or otherwise contrary to the public interest."

CONCLUSIONS

Britain has now had its Ombudsman since April 1, 1967. At the time of writing (November 1967) his operations are not giving universal satisfaction. *The Times* has asked whether we have an "Ombudsman or an Ombudmouse."

Sir Edmund Compton,¹⁰ however, could argue that he has been interpreting with difficulty the somewhat unclear intention of the legislature. Many of the legislators themselves seem to have confused (as Lord Halsbury once said) what they intended to bring about with the effect of the words they have used, and have been reacting predictably to the experience of having half of their submitted complaints (405 out of 816) returned to them as ineligible for investigation. Mr. Hugh Jenkins, MP, has said that the Ombudsman "cannot operate when he is needed and is seldom needed where he can function." Mr. Enoch Powell is equally disenchanted. ("I have always regarded an Ombudsman scheme as perfectly futile," he has said, "its only effect being slightly to diminish the effectiveness of MP's on their constituents' behalf.") Five hundred written complaints have been received directly from members of the public, who have had their letters returned with the information that they are out of order, some of them twice over, both as to the manner of approach and as to raising matters outside the Ombudsman's jurisdiction. The House of Commons Select Committee on the Parliamentary Commissioner, which is not certain what it is for, has met and quarrelled about its chairmanship. For the moment, a bad time is being had by all.

Some facts about the first seven months of the system's operation are now evident from the Commissioner's first special report to parliament.¹¹ The

¹⁰ Sir Edmund Gerald Compton, a classical scholar, educated at Rugby and New College, Oxford, entered the Home Civil Service in 1929, served in the Colonial Office, the Ministry of Aircraft Production, the Ministry of Supply, and the Treasury, and from 1958 to 1966 was Comptroller- and Auditor-General.

¹¹ Great Britain, *First Report of the Parliamentary Commissioner for Administration*, Session 1967-1968 (London: Her Majesty's Stationery Office, 1967).

total number on the Commissioner's staff at the end of October 1967 was 59. In most cases, the basic investigating work is carried out by members of the staff, though, in a few cases, the Commissioner has taken personal charge of the enquiries. If a complaint from a member of the House of Commons is within the scope of the Act, the Commissioner or his officers invite comments from the principal officer of the department concerned and then proceed with whatever inquiries are necessary to discover whether the complainant has suffered injustice through maladministration. Some such element has been discovered in ten of the 125 completed cases. The departments concerned were the Ministry of Housing and Local Government (1 case), Inland Revenue (3 cases), Ministry of Labour (2 cases) and Ministry of Social Security (4 cases). The Social Security and Housing Ministries seem to have been the most frequent areas of complaint. The maladministration in all cases was of a minor character, consisting of mistakes in the application of rules, loss of papers, inadequate correspondence, delay, and wrong advice. In no case had the Commissioner any criticism of the action taken to remedy the mistake.

The most important fact to emerge from the report, is that, in one way, the Commissioner has carried out the draftsman's intention to exclude reconsideration of the merits of discretionary actions even further than might have been expected. The Commissioner has now distinguished in the course of his inquiries between maladministration arising from executive or departmental operations leading up to a decision and alleged maladministration connected with the final decision. It is sometimes alleged that a minister's decision is "biased" or "perverse," and this is the sense in which a complainant or an MP may argue that the decision

comes within the scope of maladministration. What they really want, the Commissioner says in his report, is a review of the decision. It will be remembered that the Government's view when the Act was under debate was that bias and perversity were forms of maladministration and that, provided there was some *prima facie* evidence of them, even in ministerial decisions, the Ombudsman would be able to investigate. But Sir Edmund Compton has, in effect, declined to follow the implications of this view. He has defined the area of his investigation as "the administrative processes attendant on the discretionary decision." If the civil servants have carried out the administrative procedures without mistakes, delays, or misapplication of rules, the final decision by the minister or in the minister's name seems immune from criticism, even if it has caused injustice. "The subject matter of my investigation," as the Commissioner notes, "is not injustice as such but injustice caused by maladministration."¹²

¹² First Report, *loc. cit.*, par. 30. Since the above was written, the Commissioner has, in fact, found maladministration in the procedure used by the Foreign Office to investigate the entitlement of former prisoners of war to compensation (Third Report, H.C. 54, 1967-1968). A second special report (H.C. 47, 1967-1968) has dealt with complaints about aircraft noise at London Airport—no maladministration being found. The first annual report was published in February 1968 (H.C. 134, 1968). Minor elements of maladministration have been found in 10 per cent of the

At first sight, this seems to be simply a conceptual splitting up of the minister and his officials. But since senior officials will, in many cases, have advised on the application of policy or discretion, besides carrying out or supervising other mechanical and statutory operations, the distinction is more than this. It is an attempt, even within the area of "administrative processes attendant on the decision," to avoid the necessity for judgments about the substantial evidence for the decision, or about the relative weights given to different evidence, or about the reasonableness or otherwise of the policy element in the decision of the department or minister. This attempt to distinguish between "the quality of the procedures attending the decision" and "the quality of the decision itself" is intellectually unsatisfying and, as the Commissioner admits, frustrating to the electors and their MP's. As one of them had it, they needed a New Man to burst open the Corridors of Power. They wanted St. George, and they got Lewis Eliot. As a judgment on the first incumbent of the Parliamentary Commissioner's office, the remark is unjust to an able and conscientious public servant. The fault is the Government's for botching the Act. Nevertheless, the Act as it stands is undoubtedly botched, and it will not do.

cases handled. 52.5 per cent of the complaints submitted by MP's have been rejected as outside the Commissioner's jurisdiction.

In Quest of the Ombudsman in the Mediterranean Area

By JOHN CLARKE ADAMS

ABSTRACT: The Mediterranean culture is not favorable to Ombudsmen. Israel alone, of the states within this area, has an officer, the State Comptroller, with functions similar to those of an Ombudsman. The *Tribunis Plebis* of republican Rome performed as a quasi-Ombudsman. But he lost this function during the Empire, and, consequently, it was not part of the Roman tradition bequeathed to the Middle Ages. The French system of administrative justice—or copies of it in force in various states of this area, except Israel—affords some of the protection furnished by an Ombudsman. Extra-legal, and not infrequently illegal, protection is obtained through the client-patron relationship between the politically weak and the politically potent, which is a long-standing Mediterranean tradition.

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FOR the purposes of this article, the Mediterranean area is composed of the non-Communist states that abut on the Mediterranean Sea (that is, Morocco, Algeria, Tunisia, Libya, Egypt, Israel, Lebanon, Syria, Turkey, Greece, Italy, France, and Spain).

I have no evidence that any of these states has created a post that is strictly comparable to the Scandinavian Ombudsman.¹

If one defines "Ombudsman" somewhat loosely, however, one might claim that a Mediterranean figure, the *Tribunus Plebis* of the Roman Republic, was an early version of the Ombudsman. That this institution did not become a tradition in the area is attributable to several factors.

Still using the term Ombudsman rather loosely, one might find in the State Comptroller of modern Israel a public official who performs functions similar to those of the Ombudsman, and in a similar manner. Finally, another state within this area, France, has created a partial substitute for the Ombudsman in its concept and practice of administrative adjudication, which has been copied, but not always successfully, in all of the other above-listed states except Israel.

THE ROMAN TRIBUNUS PLEBIS

Myth surrounds the origin of the office of the *Tribunus Plebis*. Essentially, he was a symbol and protagonist of the plebs, the lower class, in its struggle

against the power, and particularly the abuse of power, of the patricians.

The basic function of the Tribune was *auxilium plebis*, the defense of the *plebs*, exercised through the power of *intercessio*, or veto, over acts of the patrician government. The *intercessio* could be used against acts of the consuls, the senate, or any magistrate on grounds that might loosely be called unconstitutionality. In a sense, then, the *Tribunus Plebis* represented a Roman *Magna Carta*, a protection of the legally non-powerful against arbitrary disregard for tradition.

The real power of the Tribune, of whom there were varying numbers in office in the different periods of republican Rome, lay less in the act of *intercessio* than in the sanction against disobeying *intercessiones* or wreaking injury upon a Tribune. The sanction consisted of the attribute of *maiestas*, ascribed to the Tribune, which made disregarding his orders or molesting him a sin rather than a crime. The sinner's life and property were forfeited to Jupiter, and anyone was free to kill him with impunity.

For the several centuries during which the Tribunes exercised this veto power, their function resembled that of the Ombudsman, but with this important difference: a Tribune took final action on matters concerning which the Ombudsman either makes recommendations or initiates legal action.

The *Tribuni Plebis*, however, did not effectively survive the change from republic to empire. Although the office persisted, the powers were assumed by the emperor, and the issuance of *intercessiones* ceased. Thus, the institution of the Tribune was not transmitted to the modern world, either in the Justinian Code or through tradition.²

² See Giovanni Niccolini, *Il tribunato della plebe* (Milano: U Hoepli, 1932); and Pietro Bonfanti, *Storia del diritto romano*, Vol. I (3rd

¹ I should like to express my gratitude to the several experts who have helped me in this search: Paolo Barile of the University of Florence; Fredrick T. Bent of Cornell University; Ralph Crow and David C. Gordon of the American University of Beirut; L. A. Hopkins, Jr; William P. Hotchkiss of Syracuse University; As'ad Rahhal of the University of Wichita; and Harry R. Stritman of the American Libraries Book Procurement Center, Tel Aviv.

Another officer of the Roman Republic, the Censor, had powers related to those of an Ombudsman. The Censor, however, was primarily concerned with the conduct of private citizens, although, through his power of *regimen morum*, he could remove public officials.⁸

THE MEDITERRANEAN PATRON-CLIENT TRADITION

Another Roman tradition, as venerable as the *Tribunus Plebis* but extralegal in form, has been transmitted to the modern Mediterranean culture. This is the system of *patroni* and *clientes* that was, from early times, a significant factor in Roman public life. Through this system, the politically impotent sought the protection of the politically powerful on the basis of mutual recognition of a relation of dominance and subjection. The impotent, or relatively impotent, party to the implicit contract offers his services and support to a powerful man of his choosing (or to the powerful man with whom the poor man's family is traditionally aligned) in exchange for the rich man's political and economic protection. The social pattern of *patroni* and *clientes* still pervades the Mediterranean culture today, whether the *patroni* be the tribal leaders of the Arabs, the political bosses of Italy and Greece, or the Mafia chiefs of Sicily. At least two eminent authorities on foreign policy consider that Italy's almost 100 per cent record of support for the United States foreign policy since World War II is based on this same mental set, by which security is bought by subservience to an essentially sympathetic "big brother."⁴

ed.; Milano. Società editrice libraria, 1931), chap. 9, and pp 119, 129, 199, 297, and 327

² Niccolini, *op cit*, pp 104-107; Bonfanti, *op cit*, pp 120-122

⁴ Lloyd A Free and Renzo Sereno, *Italy: Dependent Ally or Independent Partner?*

Where the *patroni-clientes* relationship operates, the latter expect of the former greater benefits than can theoretically be obtained through the Ombudsman, as the Ombudsman is empowered to render justice while the *patronus* is supposed to go far beyond mere justice in his largesse of protection and favors. The Mediterranean culture is highly individualistic, and is sharply oriented toward personal rather than institutional contacts. More reliance is placed on the intercession of a properly propitiated saint than on a fair hearing and a fair trial before an impassible, unprejudiced, and all-knowing God. Why should individuals imbued with this culture seek to replace an institution that dispenses favors with one that renders justice?

FRANCE'S CONSEIL D'ÉTAT

The French, under the influence of Jean Jacques Rousseau, have developed and effectuated a political theory based on a system of strict separation of powers, with a minimum of checks and balances. Such a system has no place for an officer like an Ombudsman, an agent of the legislative branch who pokes his nose into administrative affairs. The French system, however, has developed an institution more compatible with its general theory and practice of government and has entrusted it with performing some of the functions delegated elsewhere to the Ombudsman. This institution is the Conseil d'État.

The Conseil d'État was founded by Napoleon but was related to the *parlements* of the *ancien régime*. During the century and a half of its existence, it has arrogated to itself a vast area of jurisdiction over administrative acts and their consequences, and has in this way developed a unique type of protec-

(Princeton: Institute for International Social Research, 1956)

tion for the citizen against the acts of the state.

This protection is exercised, in the main, through two types of suit. One is called *recours pour excès de pouvoir* and is concerned with the determination of the legality of administrative acts. The other is called *recours en pleine juridiction* and is concerned with determining damages against the state. The jurisprudence of the Conseil d'État distinguishes between a *faute personnelle* and a *faute de service*. There is *faute personnelle* whenever the injury is due to some wrongful or negligent act or some failure to act on the part of the government employee. The concept of *faute personnelle* is thus close to that of the summation of the American terms malfeasance, misfeasance, and nonfeasance, before they were divested of most of their content by judicial redefinition. There is *faute de service* when injury results from a situation in which the civil servant is performing his duty. An example is injury to a bystander by a policeman who, while chasing and shooting at a fugitive, accidentally shoots the bystander.

As early as 1873, the Conseil d'État held the state responsible for a *faute de service*, but in cases of *faute personnelle* the original French doctrine was that only the civil servant was liable. Some forty years later, the Conseil took another revolutionary step and held the state liable for *fautes personnelles*. In these cases, any additional damages assessed against the civil servant by the regular courts went to the state, thus precluding the possibility of double reimbursement to the injured party. In developing the concept of *faute de service* and the doctrine of state liability for the *fautes personnelles* of its administrative personnel, the Conseil d'État put France far ahead of the rest of the

world in the protection it afforded the public against injury from the state.

The Conseil has not been content to rest on its reputation, however, and has continued to make significant strides in the direction of further protection of the individual against the state. With the doctrines of *responsabilité pour risque* and *égalité devant les charges publiques*, the Conseil d'État has extended government liability, in exceptional cases, to situations where no fault was attributable either to the administration or to the civil servant. A 1917 case held the administration responsible for the damage caused to neighboring property by a munitions explosion in a nearby fort, although no negligence was shown on the part of the government. In 1928 when a local police chief in Tunis, using his discretionary power for the maintenance of public order, refused to execute an eviction order against eight thousand tribesmen, the Conseil approved the police chief's action but awarded damages to the landowner.

By 1963 the doctrine of responsibility without fault had been so extended as to cover the case of a mayor who, as a result of numerous accidents occurring along two roads of access to a fair, ordered all pedestrians to use one path and all riders to use the other. A vendor of souvenirs, whose place of business was situated on the path set aside for riders, attacked the validity of the order before the Conseil d'État, which upheld the order's legality but awarded damages against the commune on the grounds that although it had acted legally and in the public interest, it was liable for having severely damaged the vendor.⁵

⁵ Jean Marie Aubry, *Droit administratif* (Paris: Sirey, 1957); Jean Marie Aubry and R. Ducosatier, *Institutions administratives* (Paris: Dalloz, 1966); André de Laubadère,

The French system of administrative law has been copied by all the Mediterranean countries which are discussed in this article, except Israel, but in none of them has it achieved the success it has attained in France.⁹

ISRAEL'S STATE COMPTROLLER

In Israel, the officer who performs functions similar to those of the Ombudsman is the State Comptroller.

The law does not expressly charge the State Comptroller with the function of dealing with complaints from the members of the public. It does, however, empower him not only to examine the financial and economic aspects of the

administration with respect to legality and efficiency, but also to review the standards of ethical integrity practiced in the conduct of public affairs.

In reviewing standards of ethical integrity, the Comptroller acts in an advisory capacity. He does not issue orders but uses persuasion backed by his considerable prestige and popular support. According to the law, he reviews agencies, not individual acts. The allocation of individual responsibility is considered an administrative, or, in criminal cases, a police, matter. He does not intervene in questions of administrative discretion unless the act under inspection is patently unreasonable, nor does he normally concern himself with problems requiring specialized technical knowledge.

Inspections result in findings which, where conditions are not considered satisfactory, include recommendations. The Comptroller submits his findings in reports to the Minister of Finance, who, in turn, adds his comments. The Comptroller then submits both the report and the Minister's commentary to the Finance Committee of the Knesset (parliament), and then to the Knesset in plenary session.

All complaints from members of the public received by the State Comptroller are first sent to his Legal Advisor, who ascertains whether the action complained of is within the Comptroller's competence. If it is, the Comptroller consults with the office (not the officer) complained of. Regardless of the outcome of the investigation, the complainant receives an answer from the State Comptroller. It is believed that the complainant receives some solace from the knowledge that his complaint has been considered, even if the Comptroller is unable otherwise to give satisfaction, either because the complaint is deemed

Manuel de droit administratif (6th ed.; Paris: Pichon et Auzias, 1960); Maxime Letourneur, "L'évolution récente de la jurisprudence administrative pour la protection des droits des citoyens," *International Review of Administrative Sciences*, XXXI, No. 1 (1965), pp 24-30; Maxime Letourneur et J. Méric, *Conseil d'État et juridictions administratives* (Paris: Armand Colin, 1955); R. W. Evans, "French and German Administrative Law," *International and Comparative Law Quarterly*, XIV (1965), pp 1104-1123; Marcel Waline, *Traité de droit administratif* (9th ed.; Paris: Sirey, 1962); M. Long, P. Weil, and G. Braibant, *Les grands arrêts de la jurisprudence administrative* (4th ed.; Paris: Sirey, 1965); L. Neville Brown and J. F. Garner, *French Administrative Law* (London: Butterworths, 1967).

⁹ For comparative studies, see Henry Puget and Georges Maleville, *La révision des décisions administratives sur recours des administrés* (Bruxelles: Institut International des Sciences Administratives, 1953); *Le Conseil d'État: Livre jubilaire* (Paris: Sirey, 1952). For Italy, see Guido Zanobini, *Corso di diritto amministrativo* (5 vols.; Milano: Giuffrè, 1958-1959); E. Guicciardi, *La giustizia amministrativa* (Padova: CEDAM, 1957); Giovanni Miele, G. Cotzi, D. Falconi, "Italian Administrative Law," *International and Comparative Law Quarterly*, III (1954), pp 421-453. For Lebanon, see As'ad Rahhal, "The Lebanese Conseil d'État: A Comparative Study" (M. A. Thesis, American University of Beirut, 1956).

invalid or because the Comptroller believes he lacks competence to intervene. The Comptroller is also of the opinion that handling individual complaints is a useful adjunct to his primary duties, as these investigations may lead to uncovering material of importance for them.

The office has received an increasing number of complaints virtually each year since its inception. The total figure in 1965 was 2,507. The increase is held to result from the increase in (1) agencies under the Comptroller's competence, (2) knowledge of the Comptroller's role in handling complaints and satisfaction with the results obtained, and (3) population increase.⁷

In 1965 some interest was shown in establishing a bona fide Ombudsman in Israel,⁸ and a bill to that effect was submitted to the Knesset in 1966.⁹ Informed opinion in Israel seems to favor the continuance of the present practice of leaving the function of protecting citizens' interests and rights with the Comptroller, but it would approve certain modifications and clarifications in the law in the direction of giving a *de jure* status to what is now primarily a *de facto* system.

Professor Boim, perhaps the leading Israeli authority on the Ombudsman,

concludes his remarks on the Comptroller's handling of public complaints with the following summary:

The public complains to the State Controller because it regards him as the bearer of the "State's conscience" and his office as the only institution, not dependent upon the government, which is competent to investigate and criticize the actions of government departments and influence them by means of investigation and recommendation. The treatment of complaints by the Controller has become an important public function. The institution of the Ombudsman is being discussed in Israel today, in the light of proposals made by the Minister of Labour. The majority of authors are of the opinion that the office of the State Controller should also serve as Israel's Ombudsman, after suitable amendment of the State Controller's Law. The number of complaints which reach the office, their subject matter, the manner in which they are treated, the substantial remedies which are afforded the citizen, the State Controller's reputation and standing in public opinion and in the opinion of the supervised institutions and the Knesset—all justify this demand.¹⁰

CONCLUSION

The Mediterranean culture, of which Israel is not a part, is conditioned against the Ombudsman not only by its faith in the traditional *patronus-clientes* relationship and in its French tradition of the separation of powers and of administrative law. It has also endured at least two millennia of almost uninterrupted despotic, corrupt, and ineffective government. The Ombudsman is an institution that seems to flourish in the particular political climate wherein he may appear least needed, that is, in countries where a convention of co-operation and mutual respect already exists between the government and the people. The countries that now

⁷ See *The State Comptroller of Israel and His Office at Work* (Jerusalem: State Comptroller's Office, 1963); *State Control in Israel* (Jerusalem, 1965) (primarily a condensation of the 1963 pamphlet listed above); and Leon Boim, "The Parliamentary Control over the Administration, including the Ombudsman," in *Israeli Reports to the Seventh International Congress of Comparative Law* (Jerusalem: Institute for Legislative Research and Comparative Law, 1966), pp. 54-73 (with bibliography).

⁸ Doris Lankin, "Israel Ombudsman: Is He Really Necessary?," *Jerusalem Post*, December 19, 1965, p. 5.

⁹ Reported in *Jerusalem Post*, February 3, 1966, p. 1.

¹⁰ Boim, *op. cit.*, pp. 72-73.

have Ombudsmen are among those most persistently dedicated to democratic government. Quasi-Ombudsmen have been established, for the most part, in new states that are breaking dramatically with an unsatisfactory political past. Israel falls within the second of these categories, the other Mediterranean states in neither. Over much of the area, tyranny is in the ascendancy.

Only in Italy, Lebanon, and Tunisia is the political climate in the least favorable to such a liberal institution as the Ombudsman, but even these more democratically oriented states will have to overcome the inertia of tradition and a predilection for the French concept of administrative law and the separation of powers before they can institute an Ombudsman.

An Ombudsman for the United States

By ÅKE SANDLER

ABSTRACT: An imposing amount of comment on the Ombudsman, mostly favorable, has appeared in the press, in periodicals, and in books during the past four years. The introduction of a bill by Congressman Reuss of Wisconsin was the occasion for hearings and debate. This essay notes the arguments in favor of a national Ombudsman and those arguments opposed. But it seeks to illuminate the greater questions. Do we need an Ombudsman in the United States? And if the answer is in the affirmative, how should the office be organized, what would the Ombudsman do, and what kind of person should be appointed to fill this role?

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ONE wonders why the Republican Party waits another moment before coming out, as a party objective, for ombudsmen at all levels, state and federal,"¹ wrote a nationally syndicated columnist in November 1966.

Many who read this whole-hearted endorsement of the Ombudsman must have been astonished when they realized that it came from William F. Buckley, Jr., editor of the *National Review* and as conservative as one can be, this side of the John Birch Society. But he meant every word, and his unconditional support is an indication of the extent of the acceptance of the idea—an idea that originated in Sweden some 160 years ago.

Just about everybody who considers himself educated knows what "Ombudsman" means—someone to whom people can take their complaints against bureaucrats, and from whom they can hope to get a complete and thorough hearing and, perhaps, redress. The Ombudsman has worked well in Sweden and in a half-dozen other countries, all of them, except England, with relatively small populations—none exceeding ten million. So the question immediately arises whether there is a population number beyond which one cannot or should not establish an Ombudsman because its size would render the office ineffective. England, with a population of over fifty million, has an Ombudsman of only very limited functions, who could not—certainly by Swedish standards—qualify as a genuine Ombudsman, and West Germany, with an equivalent population, has an Ombudsman solely for military affairs. Sweden incidentally, has Ombudsmen for both civil and military affairs, the Justitieombudsman (JO) and the Militieombudsman (MO). But some experts on the subject believe that twenty million may be the optimal

population that an Ombudsman can handle effectively.

"Size," says Professor Stanley Anderson of the University of California, "is the single most important factor in considering whether to transplant the institution to another country."² That would rule out nations of the size of the United States—unless, of course, a federal Ombudsman were established for every state, as is the case with federal district attorneys. For some larger states, like California and New York, possibly two or three federal Ombudsmen might be necessary. We shall consider this possibility later in this discussion.

A CONSTITUTIONAL GAP

For all the intricacy of America's separation of powers and checks and balances, with numerous built-in safeguards to protect individual rights, there exists a gap—a constitutional gap—that exposes the citizen to some serious pitfalls. He can defend himself against just about everybody except the bureaucrat. The federal, state, and local bureaucracy can, if dishonest or unscrupulous, treat the "little fellow"—he who has no "connections"—with disdain, and subject him to all sorts of indignities, including loss of life, limb, and property, without having to worry for a moment about the consequences; for who will take a public agency or a public official to task? The courts? They are too busy, and when they have the time, it may take an eternity to get a decision, let alone a favorable one. And ordinarily the complaints are not of the type that call for legal action. Often, they involve administrative decisions. Sometimes several agencies are acting in co-operation. Then there is

¹ *Los Angeles Times*, November 30, 1966, Part II, p. 21.

² *Center Diary*: 14 (September–October 1966), p. 20. (A publication of the Center for the Study of Democratic Institutions, Santa Barbara, California.)

the attitude, on the part of both public and politicians, that such general complaints belong in the growing realm of "letter-to-your-congressman"—that "your congressman" properly is the person to listen to, and respond to, complaints of constituents against federal agencies or officials abusing their power or guilty of incompetence.³

The fact is that Americans feel that they "can't fight city hall," and so they do not; or if they do, they feel that they have little chance of getting anywhere beyond blowing off steam. Here is where the congressman enters the picture and provides a "couch" but little else. The irate citizen can "get it off his chest" and then go back to work and forget about it, because the average congressman (or any legislator, for that matter) has neither the time nor the inclination to *do* anything about a complaint other than to put in a phone call or write a letter on behalf of his complaining constituent.

SOME AVAILABLE REMEDIES

Americans are not helpless, of course—far from it; they have perhaps the most alert and active courts and tribunals in the world, which cover possibly the widest spectrum of complaints in the world. The complaints are of all sorts, and Americans, on the whole, fare well, for "American administrative adjudication and rulemaking are attended by the world's most fully elaborated pro-

³ See Walter Gellhorn, *When Americans Complain* (Cambridge, Mass.: Harvard University Press, 1966). Representative Henry S. Reuss, who introduced a bill for a "national Ombudsman" in Congress, has presented his views, with the aid of Everard Massey, in "The United States," a chapter in D. C. Rowat (ed.), *The Ombudsman: Citizen's Defender* (London: George Allen and Unwin, 1965), pp. 194–200. See also various works on the Ombudsman by Stanley V. Anderson, who helped Representative Reuss to draft his bill

cedural protections against ill-informed exercises of official judgment."⁴

Although the American people, on the whole, have confidence in their judges and in the courts, this confidence is not the same in all fifty states, and not the same from one social grouping to another. Negroes in the South obviously have little faith in the court system there, and many foreigners, such as Puerto Ricans and Mexicans—in New York and California, respectively—have found no reason to be jubilant about the way they are being treated in the courts, not to mention by the police—the latter often being immune to inquiry and examination. In California, where I commented in the *Los Angeles Times*⁵ on a particularly flagrant case involving the shooting and killing of a Negro driver by a young police officer, the police not only enjoy the reputation of being "the best" in the nation, but virtually comprise a state within the state and go unpunished for countless abuses and violations of (minority) citizens' rights. At this writing (November 1967), a trial against peace supporters, who demonstrated at Century Plaza, Los Angeles, at the time that President Johnson spoke there, is attracting a good deal of attention. Several judges are handling these cases, and I spoke to one of them. He was, without doubt, prejudiced against their case, calling them "kooks" and other less printable names, and when I raised the question of constitutional rights, he seemed to think that this was almost irrelevant; yet he is a most honored and able judge in all other respects. This, I may add, is typical of the situation. And there are hundreds of similar cases pending or being tried in the United States at the moment that this is being written. So, although the remedies are there, and are frequently superior to

⁴ *Op. cit.*, p. 212.

⁵ *Los Angeles Times*, June 12, 1966, p. 26.

those in most countries, they still leave much to be desired. The Ombudsman is designed to remove this deficiency in the adjudicative system.

WHO WOULD QUALIFY AS OMBUDSMAN?

A serious question often raised by those who support the idea of an Ombudsman for America is: Who would be able and willing to fill such an office? It requires a person not only with extraordinary merits and great prestige, but also with the energy and fortitude, not to mention courage, to tackle a task of this magnitude and scope.⁶ Even at the state level, this is a problem. It has been carefully considered by all the states which have considered having their own Ombudsman. Proposed legislation in California, for example, provides for a commission, consisting of the state's Chief Justice of the Supreme Court, Attorney General, Speaker of the House, President pro Tempore of the Senate, and the President of the University of California, to "select one or more qualified candidates for the office of Ombudsman."⁷ Other states—Illinois and New York—leave it up to the governor to appoint the Ombudsman. But, in either case, it is understood that he must have special qualifications for the job. On the national level, he may be proposed by the Supreme Court, appointed by the President, and confirmed by both houses of Congress. This might seem like going to extremes for an office that is not, after all, a constitutional office, and which would rank beneath that of a Supreme Court Justice, and perhaps even that of a Senator.

The person who is chosen for this arduous task should be unafraid of abuse or criticism. The job requires one

of prominent national—perhaps even international—stature, known for his high principles and noble intents—the kind of person that Sweden has been lucky in finding in Alfred Bexelius, a former judge. He was interviewed by John Bainbridge for the *New Yorker*, and said:

The ombudsman cannot be concerned about his popularity. It is no secret that high officials in Sweden . . . dislike the ombudsman. They say that he is interfering in things he doesn't know anything about, and that they could do their jobs better if he would stop meddling, but all their grumbling doesn't mean a thing. Everybody knows that it is necessary to have an ombudsman.⁸

That is in Sweden. What about America?

I think it goes without saying that he should be nonpartisan, as is the case in all Ombudsman countries. But the Ombudsman should be not only nonpartisan, but also independent of politics. It is not a political office, and its holder should be a professional civil servant who never ran for public office, and will not be tempted to return to politics. He should serve for life, and should be so carefully selected that there never could be a question of his honesty, integrity, ability, or motive. This is indeed to ask for perfection—or pretty close to it. But it should be aimed for. In all the 160 years that Sweden has had its Ombudsman, the *man* has never been doubted.

DOES THE NATION REALLY NEED AN OMBUDSMAN?

Many earnest political scientists, and others who have concerned themselves with the matter, doubt that a national Ombudsman would be necessary, or, if necessary, possible. On the other hand,

⁸ Alfred Bexelius, *New Yorker*, February 13, 1965, p. 151.

⁶ *Center Diary*: 14, loc. cit., pp. 20-21

⁷ California, Assembly Bill No. 2956, April 22, 1965.

they do not deny that there are some glaring defects in the existing constitutional structure which cannot be glossed over or ignored—or excused by the comment that Americans are “in most regards” better off than others. The fact is that there is an inordinate number of miscarriages of justice in America—*daily*. And the most serious of these are not those committed, unintentionally or otherwise, by administrative agencies; they are those committed by federal courts and federal police—federal marshals and officers of the Federal Bureau of Investigation (FBI)—whose abridgments of civil rights, usually in dealing with members of minority groups, is serious, even after the adoption of the Civil Rights Act of 1964! As for police brutality, the numerous so-called “civilian review boards” which have been proposed in state after state (without success) bear witness to serious concern about this problem on the part of many citizens. And the vociferous opposition to such boards by police associations is not less significant. In some countries, notably Sweden, the Ombudsman is the real answer to this problem.⁹

The fact that so many of the states—from Connecticut to California—want such an office is an indication that maybe the nation, too, needs an Ombudsman, or perhaps several Ombudsmen. For the federal government reaches into every state, and its activities in the states often excel those of the state governments and are, in many cases, more vital to the people in those states. One need only mention Social Security and Medicare. Open a telephone directory in any major city, and you will find “United States Government” dominating the pages. Frequently, the complaining citizens’ only

resort may be the courts. An Ombudsman would be a direct and immediate remedy—and much cheaper!

THE CONSTITUTIONAL QUESTION

Where would a federal Ombudsman fit in? And to whom would he report? In Sweden and some other Ombudsman countries, the Ombudsman is primarily a judicial officer. He has the power to survey and to report on the courts, as well as to criticize them and to recommend changes in the law. No state, to date, is prepared to give the Ombudsman this authority; he is entirely an executive official, whether the creature of the legislature or the governor. He is much like the head of the independent regulatory commissions such as the Interstate Commerce Commission (ICC) or the Federal Power Commission (FPC). But he is more independent. On the federal level, I would think it impossible to avoid making him a judicial official because so many of the complaints would be of a judicial nature. And it may eventually be necessary for the states to grant him judicial powers as well, so that he could deal effectively with corrupt or incompetent judges, of which each state has an ample number (usually elected ones), and so that he could ensure that police do not exceed their legal authority. In some states, the latter are often the direct cause of riots and other disturbances by their use of raw power when gentler tactics would work better. Policemen themselves admit this; they lack training in how to deal with the public.¹⁰

The American constitutional system is one of checks and balances, and each branch checks and balances the other so that, in the end, power is evenly distributed and no branch can arrogate

⁹ Marlon K. Sanders, “Sweden’s Remedy for ‘Police Brutality,’” *Harper’s* (November 1964), pp 132–134

¹⁰ The Los Angeles Police Department is seeking to remedy this with a special, very hush-hush training program.

to itself more power than the Constitution assigns to it. But who would check the federal Ombudsman? To whom would he report? Who would control him? Granted that independence is necessary, may he not become too independent? Can one rely entirely on the hope that he does not abuse his powers?

I think that we need not fear a too-powerful Ombudsman if the legislation establishing the office clearly delineates his powers, and does not vest in him any authority beyond that of investigation, recommendation, prosecution, and publicity. He should not be able to enforce his own decisions. He should not be able to change an administrative decision, no matter how erroneous, stupid, or wicked. His authority should be to inquire and, with the help of a subpoena, to check all pertinent records, to interview personnel involved, to make his findings public, to make recommendations, and to prosecute. Since he would be a creature of all three branches of the federal government (see p. 107), he would be responsible to all three, and subject to removal only by the Congress on the recommendation of the President with the approval of the Supreme Court, which selected him in the first place. The federal Ombudsman would not be a fourth or fifth branch of the government, but an official of the order of, say, the Solicitor General; but he would have a number of deputies, perhaps one for each state, and a fairly substantial staff of former judges and lawyers well versed in United States law.¹¹

WHAT WOULD THE OMBUDSMAN DO?

Perhaps I should have begun with this question. But I am assuming that the educated layman has a fairly ac-

¹¹ See Walter Gellhorn, "Annotated Model Ombudsman Statute," in Rowat (ed.), *loc. cit.*, Appendix, pp. 159-173.

curate idea of what an Ombudsman does. He is, in a sense, the post office for all kinds of complaints by irate or injured or disturbed citizens who feel that some government agency has treated them unfairly—whether or not the complainant is mistaken. He then examines the complaint to determine whether or not it is valid. A vast number of complaints are ignored because they need not be acted on. Let me cite some illustrations from two Ombudsman countries, Sweden and New Zealand. Addressing the Assembly Interim Committee on Government Organization of the State of California, on March 1, 1966, the Swedish Ombudsman, Alfred Bexelius, engaged in the following exchange with Assemblyman Jack T. Casey of Bakersfield:

MR. CASEY: You mentioned . . . that about nine-tenths of the cases are thrown out with no foundation, and so about how many complaints would the other one-tenth amount to over a period of a year?

MR. BEXELIUS: There are 1,200 complaints every year and that means only—

MR. CASEY: Ninety per cent are thrown out, so 120 a year.

MR. BEXELIUS: But many of these complaints have been thoroughly investigated before they are thrown out.

MR. CASEY: And . . . there is only one Ombudsman in Sweden?

MR. BEXELIUS: Yes.¹²

In New Zealand, a much smaller country than Sweden, the Ombudsman there reported that of the 1,100 complaints during the first year, he "acted" on 334 "in the first six months and 760 in the following year."¹³

To be effective, the Ombudsman must be armed with power of subpoena and

¹² Alfred Bexelius, Testimony before California Assembly Committee on Government Organization, Sacramento, California, March 1, 1966, p. 13.

¹³ J. F. Northey, "New Zealand's Parliamentary Commissioner," in Rowat (ed.), *loc. cit.*, p. 140.

must have complete access to all pertinent records. If needed, he must be free to attend proceedings which bear on the case under study. He should have the authority to investigate on the spot, to ascertain what the circumstances are, and to question all personnel involved. It should be understood by those who complain as well as by those who are being investigated that the Ombudsman will make his findings public, and that whether he does so or not is not a matter of his discretion but of law; for publicity is often the strongest deterrent. As Mr. Bexelius pointed out to the author of this article: "The real value of the JO lies in the fact that his mere existence is often enough to discourage bureaucratic abuse."¹⁴

THE PROBLEM OF UNITED STATES POPULATION SIZE

Is this country too big for an Ombudsman, or even several Ombudsmen? How could one man, or even a staff of men, handle the enormous amount of complaints that would descend on such an office? Americans are notorious complainers. Litigation in this country reaches staggering proportions in one year and exceeds anything that could be handled by present federal courts. So how could it be sensible—or reasonable—to establish another office that would deal not with legal, but with civil matters? Would not such an office simply be overwhelmed, even if, say, 90 per cent of the complaints were weeded out as redundant?

This is a distinct possibility during the first years. Maybe the first five or six years would have to be devoted primarily to acquainting Americans with the proper use of the office, but with

the help of the mass media, it could be done. Already, millions of Americans have a fairly good idea of what an Ombudsman is. A radio station in Los Angeles is known as "your Ombudsman station," and it investigates complaints involving government bureaus. Many people complain against private companies and against other individuals, but the idea is gaining hold that complaints should be those directed against government agencies. Once people get into the habit, as they have in Sweden, it will be as natural to register a complaint against the government and hope to see results as to complain, to a particular company, against a product.

Two hundred million Americans may still prove to be too many for an office of this kind, and it may have to be modified to suit America's peculiar situation.¹⁵ For example, I am not convinced that an American Ombudsman could or should investigate the courts. The federal court system is, to begin with, such a gigantic establishment that it is hardly subject to effective review. This must be done by other means, through a combination of public alertness, the press, and political intervention. But even when the courts are left out, what is left may still be too big for the Ombudsman alone to check; so it might be necessary to limit his function and jurisdiction, as determined by the legislature. Thus, if the office is brought under control, a federal Ombudsman might be a useful functionary to perform some duties necessary in the constitutional scope of things.¹⁶

¹⁵ The President's Special Assistant for Consumer Affairs is the closest thing to a national Ombudsman—or Ombudswoman, in this case—with Betty Furness in charge.

¹⁶ Walter Gellhorn, "The Ombudsman's Relevance to American Municipal Affairs," *American Bar Association Journal* (February 1968), pp 134-140.

¹⁴ Interview with Alfred Bexelius, Stockholm, Sweden, March 12, 1966.

The Ombudsman in the States

By JESSE M. UNRUH

ABSTRACT: In response to a world-wide movement in the late 1950's to encourage all governments to adopt the Scandinavian Ombudsman institution, United States scholars wrote books and articles on, and statesmen introduced bills for the establishment of, such an institution at all levels of government. This essay concerns the Ombudsman in the states. Bills to create this office have been introduced in twenty-six states, the first by State Representative Eddy in Connecticut. So far, only one proposal has been enacted into law, namely, in Hawaii. Speaker Unruh of the California State Assembly introduced an Ombudsman bill in the 1965 and 1967 sessions of the legislature, which was passed by the Assembly but rejected by the Senate. The arguments for and against the creation of an Ombudsman office are considered. While the author believes that more precise studies and explanations are needed to overcome the apathy of the public and the resistance of legislators to this reform, he concludes that the best demonstration of the feasibility of this institution in the states can result only from actual experience.

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IT took more than five years from the time the Connecticut legislature debated the merits of the first Ombudsman bill considered in the states until sufficient support could be mustered in any one of the fifty states to try the 150-year-old Scandinavian institution as a way of improving administrative procedure in American government.

January 1963 marked the beginning point, when Connecticut State Representative Nicholas B. Eddy, a Republican, offered a bill establishing a commissioner to be known as the Ombudsman, who would be appointed by the legislature and empowered to "investigate any decision or recommendation made, or any act done or omitted relating to a matter of administration and affecting any person or body of persons."¹ Although similar bills have been pending in as many as twenty-five other states, it was only last year that Democratic State Senator Duke Kawasaki achieved the distinction of authoring the first Ombudsman statute enacted in the United States, when a majority of his colleagues in the Hawaii legislature endorsed his proposal and then Governor John A. Burns, neither signing it nor exercising a veto, permitted it to become law without his signature.² Notwithstanding Hawaii's action, few state legislators seem willing to support the Ombudsman concept as a potential method for the states to offer meaningful redress of citizen grievances. The more frequently encountered responses range from relative disinterest to vociferous pessimism.

¹ Connecticut, Legislature, House, Bill No 3891, 1963, reprinted in Donald C. Rowat (ed.), *The Ombudsman: Citizen's Defender* (Toronto: University of Toronto Press, 1965), pp. 310-321.

² For a survey of Ombudsman legislation considered in the various states, see U.S. Congress, Senate Subcommittee on Administrative Practice and Procedure, *Ombudsmen: Compilation of State Proposals*, 90th Cong, 1st Sess., 1967.

HINDRANCES TO STATE OMBUDSMAN LEGISLATION

The editor of *The Ombudsman: Citizen's Defender*, Professor Donald C. Rowat, observed, at the time of his book's publication in 1965, that acceptance of the institution in the English-speaking world has been hindered by misinterpretations fostered by the "lack of full and accurate information about its actual operation."³ At virtually the same time as Professor Rowat's contribution to the literature on the Scandinavian Ombudsman, information from many sources began to explode at a fantastic rate. Professor Walter Gellhorn's *Ombudsmen and Others*, a study of complaint-handling machinery in nine countries, is certainly the most comprehensive of the great number of scholarly appraisals which have appeared in almost every law review and professional journal, as well as in popular magazines. Visits to this country by Sir Guy Powles, New Zealand's Ombudsman, and Judge Alfred Bexelius, Sweden's Ombudsman for Civil Affairs, stimulated further interest. Judge Bexelius' testimony before a committee of the California legislature helped to dispel misinterpretations held by California legislators about the operations of his office. Study projects such as those undertaken by the American Assembly, the Institute of Governmental Studies at the Berkeley campus of the University of California, and the Center for the Study of Democratic Institutions have encouraged informed dialogue and produced important data. Coverage of legislative proposals, in the states and in Congress, by press, radio, and television, both in news and in editorial comment, has given to the Ombudsman concept the impact which is attained only through the mass media. Popularization of the word itself has pro-

³ Rowat (ed.), *loc. cit.*, p. 7.

gressed to such an extent in California that radio stations, and even clothing stores, have begun to characterize certain of their functionaries as Ombudsmen. In view of this tremendous mushrooming of knowledge about the Scandinavian Ombudsman, one might expect that the barriers to acceptance suggested by Professor Rowat would dwindle and that greater receptivity would exist among legislators and the public. On the contrary, advocacy of Ombudsman bills has made few significant inroads into legislative apathy and opposition.

In a volume prepared for participants attending the Thirty-second American Assembly, on the Ombudsman, last year, Professor Stanley V. Anderson suggests another reason why acceptance has been slow: "Ironically . . . the greater difficulty in assessing the need for and potential success of Ombudsmen in America lies not in lack of understanding of the Ombudsman institution, but in scanty knowledge of related American institutions."⁴ Anyone who has participated in the legislative dialogue will freely admit that lack of adequate information about existing complaint-handling procedures has been a singular frustration. Correcting false notions held about the way in which the Ombudsman operates in his native and adopted lands presents little difficulty. The most frequent misconception is still the idea that he is some kind of super-administrator who can overrule decisions. It is a relatively simple matter to answer by pointing out that the Ombudsman's power lies only in the persuasiveness of his arguments. The real difficulty faced by proponents of the legislation consists in the probing questions which reflect a clear understanding of the Ombudsman's functions and

demand a precise demonstration of the need for such an office in the states, as well as clear evidence that an official so constituted can perform effectively in our pluralistic system.

California

The reactions of California legislators are illustrative. Midway through the 1965 session, I placed before the California legislature a proposed Ombudsman statute. After prolonged debate, both on and off the floor of the Assembly, a sufficient number of my colleagues approved the measure and sent it to the Senate. There the Governmental Efficiency Committee turned it down, rather abruptly, with several senators suggesting the need for further study. Last year, taking advantage of the first available opportunity to reintroduce the bill, I made a second attempt to have an office of Ombudsman established for California state government. Once again, the Assembly approved and the Senate disapproved. This time, however, the Governmental Efficiency Committee passed the bill out of committee "without recommendation," thus giving the Senate Finance Committee the opportunity to defeat the bill and to point out the need for further study. The response of California legislators is, of course, a great deal more varied than the rather cryptic findings of the Senate committees would seem to indicate. And while the foregoing account appears to suggest the contrary, those legislators who would be classed as opponents of the Ombudsman concept understand the institution, but raise serious and sincere doubts about the need for and the feasibility of the institution and suggest that a clear-cut case for it has not yet been made.

Need for further research

The message is clear. Further study is the common theme of legislators and

⁴ American Assembly, *Ombudsmen for American Government?*, ed Stanley V. Anderson (Englewood Cliffs, N.J.: Prentice-Hall, for American Assembly, Columbia University, 1968), p. 3.

researchers alike. Perhaps ten books, fifteen theses, and twenty articles from now, we will have collected and assembled data to demonstrate conclusively that existing complaint-handling procedures are inadequate, that they are incapable of fulfilling the goals associated with the office of Ombudsman, and that Ombudsmen in the states will significantly supplement rather than diminish conventional channels of redress. That convincing documentation has not yet been presented is uncontested. In the face of repeated urgings for more knowledge about citizen grievances and the way they are being treated by government agencies, it is apparent that a thorough reappraisal of the arguments now being advanced against the introduction of the Ombudsman in the states, and of the questions being raised about its feasibility, is both timely and essential. The appropriate frame of reference for further research is the contribution that the end-product can make to the current dialogue. When the studies have been published, will we have learned enough to be able to silence the plea for further investigation, or at least to render it irrelevant as an excuse for deferring action? Do the potential results of specific inquiries give promise of justifying the time and effort invested or are they likely to be unproductive diversions? The objective of this article is to stimulate such an evaluation of the potentialities of research. Hopefully, a review of the legislative dialogue to date, drawn principally from the California experience, will provide a useful point of departure. However, it is well to recognize that, under the federal system, the fifty states, with sizable differences in geography, political history, and population, also provide substantially different governmental processes within similar constitutional frameworks. Still, there is sufficient similarity to permit useful generalizations

about the governmental context and the appropriateness of an Ombudsman in the states, based largely on the experience of a single state. And, for obvious reasons, I am more familiar with the California proposal.

CALIFORNIA AND THE OMBUDSMAN

Generally, the initial reaction among California legislators to the idea of independent review of citizen grievances was favorable, based, perhaps, on a sort of institutional recognition of the need for outside scrutiny of administration decisions. A few legislators immediately accepted the whole case for the Ombudsman as advanced by its advocates, and many more of them grudgingly admitted that existing methods of handling grievances were inadequate. A great many remained unconvinced that a case could be made that existing procedures were not adequate.

Citizen-government relations

What is adequate? What criteria do we have to develop an acceptable and agreed-upon basis for determining whether existing complaint-handling devices measure up to the test of adequacy? Initially, we must look to the foundation underlying the relations between the citizen and his government. We have enumerated social objectives and invested in governmental machinery the responsibility for fulfilling those objectives—to educate our youth, to heal the sick, to care for the aged, to rehabilitate the crippled, and to treat the mentally ill. We have enlisted the aid of government in an ongoing commitment to the effort to eradicate poverty, to the renewal of the cities, to the requirement that we do justice to American minorities, and to the promotion of economic growth. We have done these things in the apparent belief that gov-

ernment can do for the citizen what he cannot do so well for himself. Consistent with our democratic tradition, we expect these services to be dispensed in a manner that will insure equal treatment of all citizens by those agencies which we have created to serve them. And so the test of adequacy is whether we have provided machinery to guarantee evenhanded and impartial treatment.

Complexity and impersonality of administration

There is little need to recount here the growth in size and complexity of the administrative structures which have been established to administer expansive governmental programs for a rapidly expanding population. No one expects administrators of these programs to be infallible. Ample empirical evidence is available to demonstrate that they are, after all, human. Each legislator, depending largely on the type of constituency he represents, has a more or less heavy case-load of complaints against governmental agencies. These run the gamut of human error, from simple failure to respond to a letter to decisions or omissions which greatly affect the lives of individuals. I have personal knowledge of a particularly poignant example which occurred not too long ago in California. It involved the Department of Mental Hygiene's approval of the transfer of a young child from a state hospital to a private facility to permit her to receive medical care which she sorely needed; and since the state could not provide the care and it could be obtained at less expense, the legislature had provided authorization for treatment in an approved private facility. After the transfer had taken place, the Department withdrew approval because it discovered that an arbitrary limit had been placed on the fee which could be charged by the private

facility that was well below the statutory authorization and the usual cost of care similar to that which the little girl was to receive. All this was justified to the child's mother on the basis of insufficient funds, in contradiction to the availability of funds appropriated by the legislature for that specific purpose. This case was particularly disconcerting because, in a very real sense, a child's life was involved. The frantic efforts of the mother finally found the assistance of a responsive legislator, who, incidentally, was not her own representative, although she had written to him, to the Governor and to virtually everyone else who seemed to offer a remote chance for help. Although the case was finally resolved in a manner satisfactory to the child's mother, it still contradicted legislative policy, and subsequent investigation uncovered a number of similar cases for which no complaint had been submitted. Cases like this evince an obsession among administrative agencies with the binding and inflexible authority of departmental decisions, precedents, and forms, irrespective of how badly or with what hardship they may work in individual cases. They suggest an indifference on the part of some officials toward the convenience or feelings of individual citizens and failure to recognize the relations between citizen and administrative agency as an essential element in the democratic process. Happily, such officials are the exception, and not the rule.

For the purpose of this article, the above-mentioned cases merely serve to outline the dimensions of citizen complaints. Beyond that, we know little about the volume of complaints received by administrative and elective officials. Some hints are supplied by the pilot projects sponsored by the University of California's Institute of Governmental Studies: Dean Mann's *Complaint-*

*Handling by State Legislators*⁵ and Gerald McDaniel's *Letters of Complaint: Mail-Processing in California's Administrative Branch*.⁶ While both studies leave many questions unanswered and raise some new ones, they provide what little documentation we have available as to volume and type of complaints against agencies of state government.

The acceptance, as a theoretical objective, of the goal of providing impartial and evenhanded treatment of citizens by administrative agencies has not been challenged. Documenting the existence of conditions falling short of that objective is not difficult. Further illustrations are perhaps unnecessary. What is appropriate at this point is the more central and more difficult task of evaluating the ways in which our governmental system responds to complaints. What remedies are open to the ordinary citizen against the action of a large public agency?

Existing channels of appeal

What channels of appeal are offered through administrative law? Initially, it should be recognized that the great majority of actual administrative decisions carry no formal right of appeal. It has been estimated that perhaps 80 to 90 per cent of the impact of administrative discretionary action takes place in the absence of the safeguards of hearing procedures. Further, administrative law in the United States has been slow to recognize and to provide protections for the rights of individuals. Until the late 1930's, the concern was almost entirely with the constitutional foundations of administrative law. Then recognition of the need for formal pro-

cedure in adjudication and rule-making finally developed to the point that, throughout the country, administrative-procedure laws were enacted, such as California's, which was adopted in 1945. Yet to be given adequate study, however, is the exercise of discretion in informal proceedings. When a decision arises, an administrator's choice is usually beyond legal review, unless the result is so arbitrary as to constitute a clear abuse of discretion. Sometimes the greatest discretionary power is exercised when an administrative official decides to do nothing. Formal administrative procedures and the process of judicial review of administrative decisions frequently offer essential protections of individual rights. But how many grievances occur in areas where there is no legal remedy, or where the available remedy is too costly, the scope too limited, or the time for appeal expired? How often is the citizen unaware that he has legal recourse? Systematic documentation is lacking.

Elected officials' complaint-handling procedure

As previously noted, some attention has been paid to the way in which elected officials attempt to exercise informal means to provide redress of grievances. Professor McDaniel's study of the handling of complaint mail by the office of the Governor of California suggests that more people look to his office for help than turn to legislators to handle their complaints. Yet one apparent drawback to the Governor's ability to handle complaints is that his office is, of political necessity, motivated by the desire to present the administration in the best possible light. This concern can easily affect active pursuit of complaints if the results might be deemed to be embarrassing to the administration. An apt illustration occurred during the recent gubernatorial

⁵ Dean Mann, *Complaint-Handling by State Legislators* (Berkeley: Institute of Governmental Studies, University of California, 1967).

⁶ Gerald McDaniel, *Letters of Complaint. Mail-Processing in California's Administrative Branch* (Berkeley: Institute of Governmental Studies, University of California, 1967).

election in California, when complaints that bid-specifications for Highway Patrol vehicles unfairly favored one supplier went unheeded by the administration until public disclosure and the resulting controversy forced a change in policy. Notwithstanding these drawbacks, I have a personal suspicion that, on the whole, chief executives do a better job than legislators in the handling of grievances. For one thing, despite the frequent and emphatic objections of many legislators that they are effectively performing the functions of an Ombudsman, they are impeded in attaining the objective of uniform and impartial treatment of complaints by some of the same factors that plague governors and by others inherent in their own offices.

It is easy, and probably not unreasonable, to ascribe questionable motives to the legislator as complaint-handler, when he is of the same party as the governor, if he is sensitive to the same common concern for protecting the administration. Similarly, it is not unreasonable to question the enthusiasm of an opposition-party legislator if he appears a bit overzealous in championing the complainant's cause. The extent to which this partisan approach actually affects a legislator's attention to his errand-running functions has not been demonstrated. But the fact that partisan relationships are recognized may also be important. It may affect the way in which an administrator reacts to a legislator when he is making inquiry on behalf of a complaining constituent. It may affect the way in which a constituent of a different party feels about his prospects of getting fair treatment by his representative. The extent to which these factors may mitigate against uniform handling of complaints is imponderable. The conclusion that all legislators are not doing the job equally well is inescapable. Some, be-

cause of a particular constituency, may be entirely overburdened with complaints. All legislators do not share similar motivations toward complaint-handling. Some able and energetic legislators may be able to obtain better responses from administrators. Some may have established areas of expertise, and are better able to pursue complaints in those areas. And, finally, to my knowledge, there have been no efforts made to get agreements among legislators that would establish uniform guidelines. As a result, this kind of review is so varied and uneven that it must, of necessity, fall far short of the goals associated with the Ombudsman.

At the same time, the handling of complaints by individual legislators prevents comparisons which might reveal that what appears to be an isolated complaint is actually part of a broader pattern of complaints throughout the state. One of the immediate benefits of a central office for complaints is its advantages for recognizing patterns of grievances.

In view of the rather obvious shortcomings of legislative complaint-handling, I am continually impressed with the number of people—including legislators—who seem to feel that the highest and best legislative duty is servicing complaints. Even allowing for those who hold that errand-running is an inescapable function of representation, there seems to be an unhealthy concentration on this aspect of service at both the state and national level. In part, this attitude among legislators is understandable. A legislator's principal job—making laws and other enactments of policy—is necessarily controversial and difficult. Many legislators are reluctant to perform this central function, and enshrine complaint-handling as a lofty and exclusive legislative duty. This is not hard to do. It can be argued that understanding the problems

of the constituents is basic to the representative function. Furthermore, case-work gives the legislator the opportunity to serve in fact, as well as in theory, as a check on the administration. Perhaps a more accurate reason for the enthusiasm of some legislators for case-work is that it is relatively easy and popular back in their district. Many legislators privately acknowledge that their complaint-handling is inefficient and the results uneven. But it is easy to blame failures on a huge, unfeeling bureaucracy, and it is popular to campaign on what you have done and can continue to do for your neighbors in the district. Discussing the real problems that confront us—racial unrest, air pollution, inadequate schools—is not only difficult: it is politically dangerous. The security of case-work is much more appealing. And while one may question the extent to which errand-running helps to earn re-election, the fact that it certainly cannot hurt is sufficient justification for a ballot-conscious legislator. And I am dismayed at the number of people who seem to prefer that their legislator respond to their demands for service, even though they are aware that it may mean a sacrifice of his duty to legislate.

Obviously, the legislator who wants to find solutions to problems and to enact the laws implementing those solutions will have less time for case-work. As the problems of state government become increasingly more complex, the solutions become more difficult, the implications farther-reaching, and the results more controversial. It is easy to understand a reluctance to meet these challenges. But can we afford the consequences of not doing so? An Ombudsman would make a contribution to the cause of legislative reform by giving the legislator more time for the tasks of legislating. Legislators who feel threatened by the prospect of an Ombudsman

intruding between them and their constituency should draw a distinction between the great bulk of mail that they receive from their districts asking for information and expressing views on issues and the smaller volume of specific complaints against administrative agencies. The presence of an Ombudsman will not stop the flow of mail, and it is likely that legislators will still continue to receive complaints. And they would retain the option of taking care of them themselves or referring them to the Ombudsman. Another related, but more subtle, advantage for legislators which an Ombudsman would represent is the availability of an outlet to avoid a potential conflict-of-interest situation. Frequently, constituent calls will present a complaint against a public agency that touches that gray area of conflict of interest. If the legislator does not pursue it on behalf of his constituent, he may be ignoring a valid grievance. If he does, he may find himself in a severe conflict of interest, potentially damaging politically either through public disclosure or through continued indebtedness to the administrative agency.

Legislative surveillance and the Ombudsman

Although the process of informal complaint-handling by legislators appears to fall far short of the goal set for the Ombudsman, it has received at least faint praise. Professor William Keefe has commented on this activity by observing that "however modest 'errand-running' may appear as the function of the legislator it comes close to the best illustration of continuing effective oversight."⁷ While that may

⁷ William J. Keefe, "The Functions and Powers of the State Legislatures," *State Legislatures in American Politics*, ed. Alexander Heard (Englewood Cliffs, NJ: Prentice-Hall, for American Assembly, Columbia University, 1968), p. 46

be true, it offers little consolation, because it is a more significant commentary on the sad state of legislative surveillance of administration, which is more centrally related to the duty of legislating. Many proponents of the Ombudsman proposal have suggested that the more effective handling of individual complaints would also supply more comprehensive surveillance of administration. While that is, no doubt, true, it raises a potentially disturbing problem. In the first place, putting great stress on this aspect of the Ombudsman's activity may well lead the office into misuse. Further, the legislature should not lose sight of the need for improving surveillance through more effective budgetary review and greater emphasis on program review by legislative committees. Reforms, such as those recently approved by the California voters, permitting legislators to devote themselves full-time to their task and establishing an annual session, provide a framework for further legislative reforms, including improving surveillance. The Ombudsman should not be looked to as a replacement for genuine reform either in the legislature or in the structure of state administration.

Administrative reform and the Ombudsman

For example, one of the most significant needs in government today is a complete overhaul of the fragmented administrative structure providing people-oriented services. Many citizen complaints are not the fault of any administrator but result from the confusing complexity of the structure which has been created to provide services. We have tinkered with different approaches to reorganizing top-level administration and community-level contact points, such as providing multiservice centers, and we have not even begun to deal with the problem. The Ombudsman is only a

supplemental remedy to deal with the immediate complaints. We should not permit advocacy of such an office to deter us from the more basic problem. The California legislature enacted a statute last year giving the Governor greater flexibility to initiate reorganization.⁸ Effective use of this tool may help to avert complaints before they develop.

In discussing the adequacy of existing methods of handling complaints in the states, such contributions as the periodic news story which is stimulated by a just grievance were not mentioned because they are really not relevant to the goals and objectives used to test the adequacy of formal and informal governmental machinery. The conclusion in virtually every instance is that further research is necessary to document and substantiate the observations which have been made.

Population: size, homogeneity, and poverty

A number of other questions have been raised about the ability of the Ombudsman to adapt to the American environment. It has been pointed out that the institution has never been tried in a country that was not geographically small, with largely homogeneous population and very little abject poverty. The arguments have been made that it would be impossible for a statewide Ombudsman in California to become accessible to the people who need his services, that he will have too many complaints to handle effectively, and that the office will be too costly. While the prospect of an inaccessible Ombudsman overburdened with complaints seems slightly incongruous, it may be possible.

⁸ California, Legislature, Assembly Committee on Government Organization, *Organization of the Executive Branch*, Sacramento, 1967. Part I of the committee's report deals with executive-initiated reorganization.

Intergovernmental relationships

Another criticism holds that it will be impossible to insert such an institution into our complex system of interrelationships among federal, state, and local government agencies. General application of this argument would be likely to lead us to conclude that our entire system is unworkable. The California bill, as originally proposed, only applied to decisions of officers and employees of state government; and to insure the peace officers' and district attorneys' lobbies that the Ombudsman would not lead to local police review boards, more specific language excluding local government from the Ombudsman's jurisdictions was included.

Political independence

Further objections raised are that it would be impossible to find any one who could fill the job, that expecting the Ombudsman to remain totally independent of the executive branch and free from legislative direction and control is unrealistic, and that anyone holding the office would be bound to become partisan in approach. It was with the specific intent to encourage independence and avoid partisan politics that the selection of the Ombudsman candidates was made the responsibility of a non-legislative commission under the chairmanship of the Chief Justice of the California Supreme Court. The other five members of the blue-ribbon commission are the Attorney General, the President of the University of California, and appointees of the Governor, the President pro Tempore of the Senate, and the Speaker of the Assembly. Recommendations of this commission are made to a Joint Legislative Committee on Administrative Justice, composed of three members of each house from both political parties. The com-

mittee is to nominate the Ombudsman by absolute majority vote, and the nominee is then to be appointed to the office by concurrent resolution of the legislature. It was felt that this procedure, while complex, would require the development of a consensus regarding the choice of the Ombudsman. This is one of the few points on which the proposed California statute differs in any degree from the model prepared by Professor Walter Gellhorn.⁹ Professor Gellhorn suggests the far simpler approach of having the chief executive appoint the Ombudsman subject to confirmation by two-thirds vote of both houses. The potential difficulty which lies in this approach is that it does not permit or encourage the developing of any consensus prior to the submission of the appointment. Because it is highly irregular for an appointment of the Governor to be rejected, should either house turn down the candidate for the office of Ombudsman it is likely that a bitter stalemate would result.

Despite the effort to prevent the office of Ombudsman from developing partisan overtones, all the opposition votes in the Assembly during the last session of the California legislature were cast by Republicans. An argument advanced by one Republican during floor debate on the bill was that five of the six members of the appointment commission were of the same political persuasion, and would exercise partisan influences in outvoting the Governor's appointee in selecting the candidate for Ombudsman. This argument overlooks the fact that it still takes an absolute majority vote of members of both parties on the joint committee in order to make the actual nomination to the legislature. But the argument was apparently persuasive.

⁹ Walter Gellhorn, "Annotated Model Ombudsman Statute," in *American Assembly*, *loc cit.*, pp. 159-173.

Public apathy

And, finally, one of the most telling arguments against Ombudsman legislation is that there is no ground swell of support for it. Many legislators who look to their daily mail deliveries as a guide to building a proper voting record, have pointed out to me that they have never received one letter of support for the bill—or against it for that matter. While I have received a good deal of mail favoring the Ombudsman proposal, I must agree that there is no great popular demand to establish such an office, and to my colleagues who are concerned about this kind of thing I usually point out that we would probably not have a state legislature if we had to wait for the people to demand one.

My personal belief is that the establishment of the office would be a large

step toward restoring people's confidence in government, and toward countering the antigovernment malaise that is so prevalent, by demonstrating the government's desire to serve the needs of people.

CONCLUSION

We are at the threshold of broader acceptance of the Ombudsman concept. The contributions of additional research will surely be helpful. But what better step can we take to prove the feasibility and the need for an Ombudsman in the states than by actual experience with the institution? The costs are modest, and the results give great promise of being substantial. As Professor Gellhorn reminds us: "The wrecks of earnest reforms lie all about us. They remind us that accomplishment may not soar as high as hope! What have we to lose?"

An Ombudsman for Cities?

By FRANK P. ZEIDLER

ABSTRACT: The office of Ombudsman might have some useful functions in cities, but at present a great number of people, in paid and voluntary capacities, are meeting many of the functions of the Ombudsman in defending or pleading for people against the dicta of the bureaucracy. The office of Ombudsman would not be effective in many smaller cities because of the domination of small power groups in those cities. In the larger cities, the Ombudsman could have little effect in the face of the enormous problems and basic deficiencies of the cities. A great issue in political and social life in American cities is the effort of white and Negro separatists to discard democracy and to substitute a caste system based on separatism. If this effort succeeds, no Ombudsman at any level in American society can be effective, because future decisions will be based on what the castes demand of each other, and not on the principle of abstract justice for the individual.

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THE current growth in bureaucracy in government, the result of the large-scale social and political problems that have emerged in United States society and culture, has brought about a new interest in the function of the Ombudsman, the independent appointee of a government who acts as the people's investigator, defender, pleader, and guide in the struggle against the authority of an unchecked or insensitive bureaucracy.

The concept seems best suited to the struggle of the citizen against the federal bureaucracy, but there appears to be some appeal in the idea for those interested in improving the quality of urban or metropolitan life.

A general review of urban conditions reveals that the idea has merit and is indeed being practiced in some manner in many aspects of urban life; but the urban ills of America exceed the Ombudsman's capacity to solve, and require fundamentally new efforts at political action.

TYPES OF URBAN COMPLAINTS

Urban people have certain kinds of complaints against local government. If an attempt were made to tabulate the frequency of such complaints, no doubt, complaints about taxes, licenses, fees, and other collections of local government for supporting itself would be important, but they would probably be exceeded by complaints about garbage and rubbish collections and the failure of the public works agencies to perform their functions. A large number of complaints are concerned with the amount of welfare assistance and relief payments. Also, complaints about local nuisances, dogs, taverns, unsightly buildings, neighbors, and the failure of the bureaucracy to remove abandoned automobiles effectively, come to the city officials.

A large number of complaints cer-

tainly arise from administrative decrees issued by health departments, building-inspection departments, zoning offices, fire-safety inspectors, and other code enforcement officers. People in urban areas also have grievances against urban development departments, highway departments, public housing agencies, and other public agencies which exercise the right of urban domain and which evict them from their houses and neighborhoods. Planners also trouble people; any plan produced for some supposed urban improvement is bound to conflict with someone's deeply felt interest.

Complaints about transportation service, parking, and traffic bottlenecks also are a fruitful source of trouble for the urban bureaucrat, and now the airport and its unhappy side-effects on local residents constitute a new source of grievance.

All of these types of complaints can be serious. Even more serious are citizens' complaints against the police departments, though for seemingly contradictory reasons. Either the police are not protecting the people on the streets, or the police are brutal with people. These complaints may not be so contradictory as it would seem at first glance; they reflect urban ills much deeper than the surface anger expressed at the police.

COMPLAINTS ABOUT RACIAL PROBLEMS

Most critical of all the complaints now, and those which dwarf all the others, are the complaints of the races about each other, something which I predicted would worsen in the United States, and which I described in this publication in 1957.¹ If a bureaucracy is controlled by one race, no matter what it does, it is likely to be suspect to some people of another race.

One would not want to live in an en-

¹ Frank P. Zeidler, "Urbanism and Government, 1957-1977," *THE ANNALS*, Vol. 314 (November 1957), pp. 74 ff.

vironment without some challenge and struggle, because a cultural climate or environment without some stress would be deadly; but it is likely that in United States cities today, in many places, the stress of multiracial division has become so severe that the mental strain on people will cause them to turn against and destroy their physical environment and even themselves.

EXISTING TYPES OF "OMBUDSMEN"

The stresses in United States urban life have become so severe that many kinds of groups and people have emerged as types of Ombudsmen or pleaders for the people against the bureaucracy. The unexpected direction of the poverty program is an example. When that portion of the Economic Opportunity Act which called for participation by the poor in decisions affecting them was interpreted as a war on the mayors, the power structure, and city hall, the mayors understandably were quite surprised. They had not realized that there were enough social workers around who felt that they could organize the poor so as to force the social workers' way into the select circle of city decision-makers. An even later example is the rise of Black Power militants, who see in the public unhappiness with city bureaucracy and elected officials a chance to practice the teachings of guerrilla warfare.

These latter types have similarities to the followers of Saul D. Alinsky. Alinsky's teachings of getting power for the powerless through community organization and deliberate conflict with city hall have won disciples among hundreds of urban clergymen and religious women, social workers, and other people who feel deeply about the distress of the urban poor, but who are not yet so politically sophisticated as are Black Power proponents.

The more moderate types of the American variety of Ombudsmen have been around a long time. These types include the clergyman who acts as a case worker for distressed families and people in his church in their brush with some arm of government. Private social welfare workers have also acted as pleaders, although one may be inclined now to regard many private social-worker professionals as part of the interlocking top bureaucracy of accepted public and private agencies. County agents in urban counties now often act as Ombudsmen for people who do not know how to cope with problems of urban living.

Settlement workers and adult education and recreation workers, even though part of the government, often act as guides, pleaders, and defenders of people against other branches of the bureaucracy. Community organizations and block clubs often produce spontaneously a volunteer type of individual who acts as leader, pleader, and defender of his group's interest. Bridging the gap between these volunteers and the official bureaucracy are some of the official community workers in special community liaison departments of city government now being created.

For the middle class and those who have funds, there are attorneys and lobbyists. The ethnic and national groups have long had their own leaders.

For everyone, there is the political party unit and the local political leader who knows how to intervene on behalf of the party workers or the friends of the party workers.

One must not forget the local press, whether daily or weekly, which considers itself the tribune of the people. More recently, radio and television editorialists sometimes act in the general public interest, despite the economic biases of their network's owners.

All in all, there are many people in

the metropolitan areas who function in some ways as an Ombudsman, expert in dealing with the ways of administrative bureaucracy.

It might be desirable for some urban community in America to experiment with creating the position of Ombudsman, just as Representative Henry S. Reuss is now doing in his congressional district, the Fifth Wisconsin Congressional District. He has created such a post for his constituents.

However, it does not seem that the office of Ombudsman can be particularly effective at this stage in the evolution of United States urban society, because there are serious obstacles to the effective functioning of the Ombudsman both in small and in large cities.

MAGNITUDE OF URBAN PROBLEMS

The current problems of urban and metropolitan areas in the bigger cities seem too enormous to permit their solution through the efforts of the office of Ombudsman, and in the smaller communities, under the social and political systems that frequently prevail, the Ombudsman is not likely to be effective because of the control of power by one person or by a very small group.

In the smaller communities of the United States, it frequently happens that the political system is dominated by some small economic group, or even by one individual. Appeal against a governmental action by the dominant local group is often difficult. An attempt at an appeal may result in loss of employment in areas where there is a surplus of labor. Appeals for relief or public assistance or against the decision of welfare agencies in such areas are also quite difficult. Usually, appeals are effective only when they are directed through a chain of friends, with the appeal finally reaching a person of influence.

The problems of the larger communi-

ties are of a different order. The current problems of housing, race relations, crime, traffic, pollution, and employment opportunities in some of the communities are so great as to constitute mass phenomena which cannot be solved by Ombudsmen or even by an office of administrative counsel. Such offices could only deal with a small portion of the main problem. The solution of many urban problems requires fundamental changes in people's attitudes, in their education, in economic relationships, in governmental powers and structure, and indeed in the philosophy and direction of society. The most important effort must be directed toward effecting the fundamental changes first.

The difficulties under which an Ombudsman might have to function, when the total milieu functions to prevent a solution of the problem, could completely negate his work. An aggrieved welfare client could complain that the public case worker is depriving him of an adequate budget to keep alive and is applying the rules unjustly. This indeed might be the case, but in many cities with large welfare loads, the fact is that not enough money can be raised from all sources to meet the full welfare needs of all clients, and, as a result, stringent budgets are put into effect. Some additional assistance may be obtained for one person, but the major problem is practically untouched.

Similarly, a complaint against a housing authority may provide some relief for one family, but what about the numerous other families who do not have proper accommodation? The city had better address itself to the solution of the underlying and fundamental problems; this is the best way to employ its human and financial resources. When these problems are solved, it can then direct its attention to refinements of the administrative process by providing for some kind of administrative appeal

for people entrapped in administrative regulations.

REWARDS TO CITY SPOILERS

One of the most frustrating things about American urban society is that, at the present time, it seems to reward those people and forces busily trying to break it down, either consciously or unconsciously. The racial extremists often triumph at the elections. The polluters of land, water, and air are so politically influential that they cannot be prevented from carrying on their unethical practices. The slum landlords can hire attorneys to frustrate the city ordinances. The vice lords and the gambling syndicates seem to have partial control of many city governments. The social snobbery of an upper-middle income group prevents the solution of the problem of the racial ghetto in housing. The private motorist, who refuses to allow himself to be properly taxed to meet municipal government costs that arise from his vehicle use, is the dominant factor in municipal voting. The mass transit rider has little political power; and the pedestrian, almost none at all.

The people who make their fortunes in the downtowns of the inner city of the metropolitan area reside elsewhere, and their taxes often go to strengthening the community of their residence against the place where they earn their income. The older central cities of the United States metropolitan areas, with their numerous and relatively poorly educated constituents, are dominated by suburban people who control the press, the media of communication, business and industry, better income opportunities, and also the elections of the inner city.

Against the large-scale human problems that result from such an environment, physical and social, an Ombudsman, or a group of Ombudsmen in an office of administrative counsel, would

have little effect. Only when these fundamental conditions are changed, and when government and society, on the whole, function so that the productive and useful activities of men are rewarded in urban society, might the work of the Ombudsmen have a good effect in coping with the problems that inevitably arise when people and a bureaucracy deal with each other.

THE URBAN STRUGGLE FOR DEMOCRACY

If the struggle to preserve a democratic society in urban places does not succeed, it does not seem possible that there can be a role for the office of Ombudsman at any level of government in American society. The reason for this is that the struggle in the cities is now essentially a struggle to establish a caste system of society and to defeat and reject the democratic method of solving political and social problems. The Negro and white champions of racial separatism are seemingly in a struggle with each other over the control of power in society; but, actually, both groups are fighting against those who hold the concept of an integrated society. The question of race, which in so many metropolitan areas is now the overwhelming issue, is not really a difference between the separatists of different color, but between those separatists, of whatever color, who want social secession from American society and those people, of whatever color, who want no social secession or withdrawal of any group or caste. If the secessionists succeed, and they are succeeding at the polls in many places, the decisions of society will be made on the basis of caste and between races. No Ombudsman, then, intervening for a person of the wrong caste, will be able to advance his cause on the basis of some abstract principle of equal justice for all. The decisions will be made on the basis of

castes and what the castes demand of each other.

For people who have the strength and energy to work on the problems of American government today, it would seem that, at this stage, their energy could best be spent in political organization and education to fight for and keep secure the democratic processes by electing and keeping in office public officials committed to an integrated democracy, and not to racial separatism. This is where the big challenge in society is today; it is not in an irresistible movement of the bureaucracy against the individual. In many instances, the bureaucracy will as readily lend itself to the demands of a totalitarian as to those of a democratically inclined official. At present, the bureaucracy is subordinate to the authority of the elected official. Once the principle of democratic participation in government is again preserved (one might even say, rescued) in American city government, then the development of the office of Ombudsman would have more importance and significance.

Realignment, Readjustment, Reform: The Impact of the Ombudsman on American Constitutional and Political Institutions

By DALMAS H. NELSON and EUGENE C. PRICE

ABSTRACT: The idea of an Ombudsman has entered American discussion at a time of extraordinarily urgent need for attention to grievance machinery and efficiency-promoting devices in government. This is indicated by the scope and character of present discontents; the increasing contradiction between taxpayer resistance and compelling requirements for governmental spending, especially in state and local government; and the emergence of many social forces stimulating people to assert their rights in relationship to government. The Ombudsman concept deserves wide trial in America, but, at the national level, probably will need to be modified so that a group of Ombudsmen serve, with their responsibilities divided on the basis of broad functional areas. Grievance machinery already available ought to be strengthened in several respects, including administrative appeals systems, judicial review, legislative case work, and other devices. There is need for increasing the representation of the general consuming public in the administrative process; for greater use of administrative standards and general administrative procedure legislation; and for the adoption of several promising new approaches to grievance-processing. All of these are necessary in order to make governmental response more sensitive, and to allay those pressures for redress which now strike deeply to the heart of American life.

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THE widespread interest in the Ombudsman concept in America in recent years has coincided with social developments which give that concept a striking timeliness, both as a remedial device and as a stimulus to attention to grievance procedures in government generally. Increasingly, the question of improving the responsiveness of government to grievances goes to the heart of the ability of the American political system to thrive in the face of severe losses of confidence in current governmental administrations, boiling resentments, and rising violence among large segments of the population, especially the urban poor. A major challenge to reformers is to ensure that the administrative process becomes better adapted to the problems of modern America.

There are symptoms indicating that, in several respects, a critical gulf exists between government and many of the people. (1) Complexity: the consumer of private goods and services is often confused by modern packaging and merchandising techniques. But, to a great extent, his situation is paralleled by that of the person subject to the regulatory and service output of government. Especially as a consequence of the enormous growth and diversity of government functions, the size and elaborateness of the administrative mechanisms, and the maze of interrelationships among national, state, and local levels, government programs are often highly bewildering. (2) Citizens' knowledge is scanty concerning the problems, potentials, horizons, and limitations of public officers. (3) Much of the general public continue to feel strongly alienated from what they consider to be the "power structures" of communities, and to believe that government is remote and inaccessible and that participation in public affairs is futile. (4) The interest-group system, which

heavily influences public policy, is grossly underrepresentative of the unorganized or weakly organized citizenry, and, in focusing on group concerns, does relatively little to bridge gaps between the individual and government. (5) Many of those with legitimate grievances find it impracticable to go through the government's grievance channels because the possible remedy may be too late to be of help, or because they cannot afford the legal expenses that may be entailed, or because they do not know where and how to complain.¹ (6) The government professional quite often is defensive in circumstances where he ought to be self-critical; and when confronted with a grievant who is politically weak, lacks articulateness, is capable of being overawed, or has simply lost hope, may simply try to discourage the bringing of a grievance by means other than alleviating its causes. (7) Many different people feel rage toward government for diverse reasons, such as what they may regard as its imposition of heavy taxes; fostering of inflation; inefficiency; unofficial condonement of racial discrimination; engagement in warfare for unconvincing reasons; failure to cope effectively with crime, air pollution, and many other grave problems; continual accumulation of new functions; or some combination of these and other complaints.

¹ A prime example is the field of public welfare. According to Charles Reich: "Welfare clients are often ignorant of their rights, lack adequate representation by counsel, and lack the resources to fight a large public agency. If even our biggest corporations sometimes find government (no matter how well-meaning) to be arbitrary and oppressive, we may expect to find that the welfare beneficiary often suffers far more from heavy-handed governmental regulation. There is mounting evidence to confirm this expectation."—"Individual Rights and Social Welfare: The Emerging Legal Issues," *Yale Law Journal*, Vol. 74 (June 1965), p. 1246.

We believe that the Ombudsman device holds considerable promise of strengthening government's capability to respond to grievances and improve administrative efficiency. We hope that it will have widespread trial in America. Fulfillment of the Ombudsman's potential depends partly on improvement of other related grievance machinery, on the willingness of government to take more initiative to seek out popular discontent, and on the general capability of government to govern effectively. We shall examine these broad aspects of governmental responsiveness.

OBSERVATIONS ABOUT SUBSTANTIVE POLICY

States and localities face mounting prospects of increasingly abrasive collisions between the financial demands on government and the ability or willingness of middle- and lower-income taxpayers to support their share of the cost of these demands under generally prevailing tax policies. Resistance to state and local tax increases is intensifying, with especially significant repercussions in the big core cities and in school districts. At the same time, however, powerful waves are breaking upon government budgets in the form of, *inter alia*, the rapidly growing militancy of public employees; the violent revolt in the Negro ghettos; the fantastic expansion—past and prospective—in the cost of medical care and public welfare; the financially staggering impact of a great increase in the proportion of the society which is made up of young people, combined with much-heightened popular expectation of educational opportunities; and the constant stream of emerging social problems leading to potent pressures for government intervention. Rarely has the need for creative innovation in the administration of public affairs been greater. There are several

implications if government is to be able to fulfill its truly vital manifold responsibilities.

Thus, much more serious attention needs to be given to the fostering of administrative efficiency and to the identification of functional areas in which government may be attempting to do too much; or in which programs (and even many local governmental systems) may be obsolete, needlessly duplicated, overcentralized, or meaninglessly diffused; or in which more reliance might soundly be placed upon the private sector.

Government might well make far more use than it has so far of nominally paid and unpaid volunteers as aids in the performance of various public functions. Surely, here is a great potential for increasing both the quantity and the quality of many types of public services at a minimum of cost, as in teaching, recreation, medical care, correctional administration, and so on. For example, the metropolitan areas have barely begun to draw upon the university students in their midst for community service of a sort that furthers the students' education, increases their sense of civic participation, and enriches the life of the city.

The federal government, with its obviously superior financial capacity, will have to get much more money to the great cities, whether indirectly through revenue-sharing, by way of general grants to the states, or directly through expansion of existing local aid programs and creation of new ones.

Further, there ought to be a considerable readjustment between this country's foreign engagements—especially its military ones—and its response to domestic requirements. Citizenry and public officials alike need a sharpened sense of the alternative opportunities we forgo when we undertake large-scale military conflict. It is folly to suppose

that the capacity of the government to respond to the great grievances among its people is not heavily affected by such military conflict.

ADMINISTRATIVE STANDARDS AND GENERAL-ADMINISTRATIVE-PROCEDURE LEGISLATION

Too often, neither the legislatures nor the agencies have formulated standards to guide public servants in the exercise of discretionary power, a gap glaringly evident, for example, in connection with the Internal Revenue Service's revocation of the tax-exempt status of the Sierra Club. Or where policy has been administratively established, it is too often unpublicized or even unavailable to the citizen. Greater clarification, disclosure, and dissemination of information concerning substantive and procedural policies and internal organization, in a manner digestible by the public, should be accomplished. Main avenues available here include more exercise of rule-making authority; more frequent statements of findings and reasons for decisions in agency adjudication of individual cases; and greater agency willingness to grant advisory opinions or declaratory orders indicating the meaning of the law which it administers, in reply to a party's request for such guidance. Such efforts are needed to foster consistent application within the agency of the best attainable solutions to policy problems; to enable external critics such as legislatures, courts, private interest groups, and individuals to assess more accurately the quality of the administrative agency's performance; and to make it possible for people to know better what their legal rights and obligations are, to gain greater comprehension of positions taken by agencies, and therefore to experience fewer irritations.

A related area also worthy of much greater governmental attention is general-administrative-procedure legislation, aimed at requiring the various agencies to observe at least minimum essentials of fairness. There is great need for such legislation, carefully drawn, in jurisdictions now lacking it. Only about 40 per cent of the states have adopted substantially comprehensive statutes in this regard.² And, as Frank E. Cooper has remarked:

In many cases the procedures of state agencies are . . . extremely bad—bad from the standpoint of the government's interest in efficient administration; bad from the standpoint of the individual's interest in having a full opportunity for fair hearings, and assurance of fair, just, and informed decisions. While the procedures of federal agencies have been vastly improved during the last two decades, little progress has been made in the states.³

Too often in general-procedure statutes, only one procedural mold is provided for a broad category of administrative action. And as there are inevitably several administrative functions which cannot, as a practical matter, very well fit that mold, the result tends to be the complete exemption of such functions, or even of entire agencies, from the coverage of the legislation, by explicit provision therein, by court interpretation, or by loose wording of the general-procedure statute, which may have the effect of virtually inviting agencies to disregard it. Unfortunately, these exemptions often involve areas where the need for increased safeguards is greatest,

² Philip M. Eisenberg, William J. Kupinse, Jr., and William W. Weber, "Administrative Procedure Legislation among the States," *Cornell Law Quarterly*, Vol. 49 (Summer 1964), p. 635.

³ Frank E. Cooper, "Turning the Spotlight on State Administrative Procedure," *American Bar Association Journal*, Vol. 49 (January 1963), p. 29.

as, for example, in the area of *informal* administrative action. Many of the general-procedure statutes could be strengthened by structuring into them several different sets of "best practices," with the different functions of agencies being related to those procedural requirements most truly appropriate for them, in the light of their particular needs and problems. Moreover, many of the variations among agencies as to terminology employed and procedures followed are essentially fortuitous, and afford no societal advantages. Comprehensive procedural statutes can help bring more order and system into administrative law, making it more understood by and accessible to the citizenry and their legal counsel.

STRENGTHENING THE REPRESENTATION OF THE GENERAL CONSUMING PUBLIC IN THE ADMINISTRATIVE PROCESS

Many government agencies have as part of their *raison d'être* the task of promoting the welfare of the consuming public in particular fields. But an agency's response to this assignment is heavily affected by its relationships with the producing groups among its clientele, whose interests may also be its proper concern. Whether or not such groups succeed in gaining control of the government agencies charged with regulating them, it does seem clear that economic producers have a great power-advantage over the general consuming public.

Among other needed developments here is intensification of efforts to obtain more meaningful involvement of neighborhood groups in expressing their views about public decision-making that particularly affects their community. In the area of housing policy, for example, Mayor Jerome Cavanaugh, reflecting on the Detroit riots, has recently vowed: "We are not going to have any more

urban renewal without the people being in on it from the bottom.'"⁴

There might be considerable merit also in the establishment at the state level and at the local level of an agency whose focus would be on consumers generally, and which would provide liaison between government and consumer-protection groups. And within existing administrative agencies, there might well be provided more often a "consumers' advocate" or "public counsel," whose special assignment is to combat the tendency of regulatory administrators to identify with their clientele industries.

Indeed, there is a vital need for a general reorientation of administrators toward much greater concern for the impact of their decisions—or nondecisions—on the over-all environment. For example, evidently, the governmental and private authorities who have brought our present air and highway transportation systems into being have only recently—in response to rising public revolt—begun to move away from overwhelming concentration on the users of these systems, and to start to consider seriously the effects of their policies on the general society. It is encouraging that the Civil Aeronautics Board recently allowed the federal government's Transportation Department "for the first time, to become an interested party in a helicopter route award case in order to argue the 'environmental aspects,' as a kind of consumer's representative."⁵ There are also grounds for optimism in the recent court holding that the Federal Communications Commission must permit representatives of the general receiving public to take part in its hearings concerning television-broadcasting license renewals, and not deliberately limit it-

⁴ Quoted in *Los Angeles Times*, October 1, 1967, Sec. F, p. 3.

⁵ Evert Clark, *New York Times*, October 25, 1967, p. 18.

self to parties with direct economic stakes in the proceedings.⁶

Greater use of sampling processes, seriously entered into, as systematically, objectively, and accurately as possible, would help to ascertain the attitudes of consumers regarding the adequacy of substantive law and the quality of the agency's performance in administering that law.

STRENGTHENING ADMINISTRATIVE REVIEW SYSTEMS

One of the most common, familiar, and useful devices to which the grievant may resort is the administrative appeal. But its role as a check needs reinforcement in several respects. (1) For many kinds of administrative decisions affecting the rights and interests of private parties, there is no provision in agency rules for administrative appeals. Often, this is even true with regard to adjudicatory cases. It may be that almost any agency decision can be appealed informally to a higher level, if the party involved is insistent and tries hard enough to find the right channels. But affected parties ought not to be forced to guess as to what their appellate opportunities are or how to pursue them. Whether or not such a pattern is unduly burdensome to large, organized economic interests with good lawyers, it effectively inhibits the lone citizen confronting big government—especially the poorly educated person or the poverty-stricken person. (2) Sometimes the appeal provided for in the rules is only a re-determination of the case by the same officials who made the original determination. Certainly, it is well to allow a petition for rehearing and reconsideration. But rules mislead when they term that kind of process an appeal, and it

should not be regarded as a substitute for true appellate machinery. (3) Sometimes agency officials ignore the general principles that may be established by an appellate body in a case reversing or modifying the original determination: that is, while obeying the appellate tribunal in that particular case, they may go on deciding other similar cases as though no appellate precedents existed as a guide. In such instances, general enforcement of the doctrines established by the appellate body by way of corrective consequently becomes dependent on the willingness and ability of party after party to take an appeal. The effect weakens the significance of an appellate system, and surely ought to be avoided. (4) Representative and affected segments of the public have too often been denied opportunity to participate in administrative proceedings by unduly narrow agency and court interpretations of the right of intervention.

More extensive use could well be made of agency-initiated administrative review as an internal check, through such devices as systematic sampling of lower-level decisions and the use of internal investigatory offices. According to Robert C. Wood:

Many public agencies in which improprieties frequently come to light have no investigatory staffs at all—to the detriment of their reputations and programs. Others maintain poorly functioning, incompetent organizations, manned by amateurs and frequently doing more harm than good. Generally speaking, very few attempts have been made in our governments to determine the specific agencies in which these units are needed, where they should be located in the administrative hierarchy, and how they should be supervised.⁷

⁶ *Office of Communication of United Church of Christ v FCC*, 359 F. 2d 994 (D.C. Cir. 1966).

⁷ Robert C. Wood, "Ethics in Government as a Problem in Executive Management," *Public Administration Review*, Vol 15 (Winter 1955), p. 6.

Such investigatory sections might come to play large roles as recipients of citizen complaints.

IMPROVING OTHER ASPECTS OF LEGISLATIVE AND EXECUTIVE RESPONSIVENESS

Activities such as the increased vigor shown in recent years by the General Accounting Office in fulfilling its responsibility to audit administrative efficiency should be encouraged. And that office's practice here could well be emulated more widely in the states. State comptrollers and auditors often lack the staff facilities to make adequate evaluations of administrative performance in the expenditure of funds for the effectuation of public policy.

Senators and representatives in Congress provide very important grievance channels and critiques of administrative behavior. Improvement possibilities here seem to depend primarily on the extent to which congressmen might be willing: (1) to increase their concern for the merits of a grievance case and decrease their attention to the question of the political usefulness of the case; (2) to look more frequently for patterns of administrative difficulties that may be revealed in individual complaint cases; (3) to afford more staff to the minority party within the committee system; and (4) to add more staff assistance to themselves as individual congressmen.

State legislators perform similar tasks of correcting administrative oversights, prompted in many cases by aggrieved private parties. But the level of accomplishment in this regard will remain sharply limited so long as most state legislatures are characterized by short, biennial sessions; scantiness of staff resources for individual legislators; and denial to standing committees of the amount of investigatory power and staff

requisite to year-round review of administrative performance from the standpoint of legality, fairness, and efficiency.

The nature of the responsibilities that ought to be lodged with staff assistants of chief executives is a continuing issue in public administration. A strong case can be made for much more frequent adoption of the practice of appointing complaint-handling officers to executive staff positions, on a continuing, systematic, and well-publicized basis. These officers should have clear and direct access to the chief executive, to insure that cases of sufficient importance are brought to his attention. Executive staff work of this sort can be especially helpful in the numerous circumstances where a grievance involves more than one department. And it can reduce, at least a little, the problem that is faced by any president, governor, mayor, or city manager: that his high office can frequently mean isolation from the reactions of individual citizens to the ways in which the government is being administered.

The office of the Attorney General of the United States, and those of his state and local government counterparts, may have a significantly larger ability to act as mediators of grievances against government than has commonly been utilized thus far. At least to some extent, these people have a kind of external overview of administration and a measure of concern for agencies' observance of legal proprieties. Formal, publicized assignment of some aides to complaint-receiving functions might often produce helpful recommendations designed to combat any tendency toward undue delay and inaction by agencies in enforcing the law.

Among other promising approaches to the strengthening of government's capacity to respond to grievances is the "twenty-four hour city hall" provided by New York City's Night Mayor system.

Parochial concepts of conventional business hours do not seem to fit the needs of a large city, where many problems know no closing hours. Likewise worthy of attention are such efforts to reduce geographical barriers between government and the people as the establishment in some large municipalities of information centers, dispersed among many areas of the city, with direct lines to city hall and the holding of some public meetings of municipal officials in various local areas of the city instead of solely at city hall. A certain amount of face-to-face confrontation and exchange ought to help in making government seem less remote and less depersonalized to the citizen and in increasing government's awareness of public feelings. Some jurisdictions, such as Chicago under Police Superintendent Orlando Wilson, have been developing the policeman on the beat as a point of friendly, helpful contact between citizens and the city government generally. Recommendations favoring this approach have been made by the President's Commission on Law Enforcement and Administration of Justice, which also proposes establishment of a special "community service officer" in police departments.⁸

INCREASING THE CITIZEN'S ACCESS TO JUDICIAL REVIEW

Like every other device for the resolution of grievances, court review of administrative action has various weaknesses. But many of these are potentially correctable without great difficulty, and without drawing the courts into overinvolvement in administration.

No doubt, there are kinds of administrative decisions—such as various as-

pects of internal agency management—which cannot be reviewed appropriately in the courts. But many types of national, state, and local administrative agency decisions have been unsoundly insulated from judicial review, either by explicit statutory provision or by the silence of the governing statute on the question of reviewability. The silent statute, by the uncertainty that it creates, can greatly discourage resort to the courts, especially where there is not already a substantial body of case law interpreting it as authorizing review. Clear statutory extension of judicial reviewability ought to be provided in numerous instances. And courts should rarely interpret a silent statute as denying review.

At the state level, judicial review is greatly encumbered by legal requirements as to the form of proceeding a party must request in seeking review. These requirements are arbitrary, chaotic, and utterly without practical utility, causing much wasteful litigation that never reaches the merits of the case. The solution is statutory provision for one standardized form of proceeding for review.

At the federal level, the functioning of judicial review is weakened by several unfortunate characteristics, some of which are found also at the state level. These are often productive of confusion, improper denials of review, excessive costs in time and money to both government and private parties, and disheartenment to aggrieved parties justifiably seeking review. For instance, the doctrines of the United States Supreme Court as to who has standing to challenge administrative action in court are "both needlessly complex and needlessly artificial,"⁹ and deserve reformulation. And efforts should be made to bring

⁸ U.S., President, Commission on Law Enforcement and Administration of Justice, *The Challenge of Crime in a Free Society* (the General Report) (Washington, D.C.: U.S. Government Printing Office, 1967), pp. 97-99.

⁹ Kenneth C. Davis, *Administrative Law Treatise*, Vol. 3 (St. Paul, 1958), Sec. 22.18, p. 291.

more order to judicial doctrines of exhaustion of administrative remedies. Moreover, opportunities for judicial review are often lost because of an aggrieved party's inability to satisfy unreasonably technical requirements regarding the naming of individual defendants in an otherwise justifiable controversy with a federal agency. Judicial review is also burdened by the extreme variety found in several of its aspects. These include such statutory specifications—or lack thereof—as: which federal court has jurisdiction to review; the number of judges who are to deal with the case; the available time period for seeking review and the definition of the start of such time period; the question whether an administrative rehearing must be requested prior to judicial review; and the question whether an administrative order's effectiveness is stayed pending judicial review. As Judge Henry J. Friendly has put it:

These differences create pitfalls for the unwary practitioner and undue interpretative burdens for the courts. Whatever the historical reasons for this efflorescence of variety, its continuation is unworthy of an ordered legal system.¹⁰

Clogged court calendars, an inordinate backlog of cases, and overburdened jurists also weaken the usefulness of judicial review as a check. A substantial expansion of available courts and jurists is needed to facilitate the flow of cases, as well as considerable attention to selection of judges and appropriate provisions for timely retirement.

NATIONAL OMBUDSMEN

Much American discussion of the Ombudsman has raised doubts about its practicability at the national level, be-

cause of the enormous size, geographical extent, and complexity of the federal government. We believe, however, that there is a strong likelihood that the Ombudsman model can be adapted to the national level, and to this end suggest herewith one possible approach among various alternatives.

We suggest that consideration be given to establishment of a group of Ombudsmen—perhaps six to ten—who would: (1) have responsibilities separated on a functional area basis (for example, welfare and pension administration, and resources administration); (2) be persons of national stature, selected by the President and approved by some extraordinary majority of both houses of Congress; (3) serve for substantial terms and be removable only by vote of both houses of Congress; (4) have rank comparable at least to a bureau chief's; (5) each have a moderately sized staff, empowered to investigate administration; and (6) be co-ordinated by a "General Ombudsman," of rank comparable to that of a department head.

Topical Ombudsmen might be especially needed for areas of administration where many or most agency clientele are not powerful, organized economic interests, but masses of individuals, who are often poor and relatively uneducated. How can creation of these Ombudsmen offices be justified, given the widespread presence in the federal government of administrative appeals systems? No doubt, the bulk of complainants would continue to take their cases to those appeal systems, with their jurisdiction to provide higher-level, authoritative review of lower-level decisions. But analysis of major differences between administrative appeals systems and the proposed Ombudsmen is suggestive of the value of the latter as an additional safeguard and stimulus to administrative improvement.

¹⁰ "The Gap in Law-making—Judges Who Can't and Legislators Who Won't," *Columbia Law Review*, Vol. 63 (May 1963), p. 796.

Most crucially, independence of each Ombudsman from the executive branch would help to insulate his staff from the influence of competitive struggles for status that occur among people in a departmental career framework. The danger that the staff members' role as critics might be devitalized by overconcern for smooth relationships with departmental personnel, and by overidentification with departmental outlooks and customs, would be mitigated by that insulation.

Several other potential characteristics of the proposed Ombudsman system would also differ to a great extent from most administrative appellate systems: (1) possession of a kind of overview of a large segment of administration, covering several related agencies; (2) a policy of publicizing its purposes and manner of operation, so as to build an atmosphere of welcoming complaints and suggestions; (3) geographical dispersion of much of the staff, enhancing local citizens' access to the Ombudsman; (4) practical opportunity for a grievant to proceed without counsel if he prefers; (5) absence of a necessity for the complainant, in order to receive attention to his case, to show that he has suffered a "juridical wrong" as an affected party—thus, various cases alleging inefficiency or rudeness, for example, could appropriately be received by the Ombudsman even though they are not administratively appealable; (6) special emphasis on avoidance of excessive delays in response; (7) a very high degree of informality of operation; (8) in most instances, nonacceptance of a case until administrative appeals had been exhausted, although the Ombudsman would, where necessary, help the complainant find the avenues of review and requiring exhaustion would probably not always be desirable; (9) authority of the Ombudsman, with the aid of his staff, to conduct on his own

initiative, as well as in response to complaints, special studies of agency processes, perhaps involving examination of agency reports, random inspections, and a search for patterns in complaint cases, to discern as clearly as possible sources of problems needing remedy in the organization—also, as a corollary, authority to make public suggestions for changes in informal customs of the agency, rules, and even statutes, for although these vital tasks may not be beyond the scope of an administrative appellate tribunal, the Ombudsman would be in a position to make some special contributions that are needed; (10) power of the Ombudsman not to decide authoritatively, but only to recommend, as to individual case outcomes and reform measures alike.

The likelihood seems great that benefits to the administrative process from the establishment of several Ombudsmen at the national level would amply justify the extra administrative machinery and attendant costs. They should prove a meaningful corollary to the establishment of the Administrative Conference of the United States, which was provided for by a 1964 statute and was activated by presidential directive on February 7, 1968.

CONCLUDING OBSERVATIONS

There are several trends in American government and politics which, while in themselves alleviative of some of the sources of complaints against government, are likely, on balance, to stimulate a substantial increase in the scope of grievances that will be expressed, for these trends make many people more conscious of their individual rights in relationships with government, raise their level of expectation of proper treatment by government, and sharpen their awareness of the gaps between ideals and performance. Among the major developments here are the expan-

SUPPLEMENT

Recent Developments in Socialization Theory and Research

By JOHN A. CLAUSEN

THE concept "socialization," and the body of research and theory subsumed under this heading, would appear to be almost indefinitely expansible. Initially employed by the sociologist E. A. Ross to designate "the moulding of the individual's feelings and desires to suit the needs of the group," the concept did not achieve widespread use until just before World War II, when it came to center on child-rearing practices and the transmission of the cultural heritage to the child.¹ For the next two decades, the great bulk of writing in this area related to child socialization, but, as Sewell noted in these pages five years ago, socialization has more recently come to embrace role-learning at any age, and increasingly to relate the development of the person to his position in the social

organization and to examine the process in the context of social change.² The characteristics of socialization settings, as such, have also been highlighted in recent research.

Socialization embraces or overlaps with a good many other concepts and areas of social science research interest. By all current definitions, socialization entails learning that prepares the individual for membership in his society or in particular groups within the society. Socialization is thus the generic concept that embraces child-rearing, education, enculturation, role-learning, occupational preparation, preparation for marriage and parenthood and, indeed, all social learning that is relevant to one's group memberships and life transitions. Phrased differently, socialization is the process (or, better, the sum total of processes) by which the organism is transformed into the person; the personality takes shape and is modified

¹ Edward A. Ross, "Social Control," *American Journal of Sociology*, Vol. 1 (1896), pp. 513-535. The development of interest in socialization and of disciplinary convergences and specializations is documented in John A. Clausen, "A Historical and Comparative View of Socialization Theory and Research," *Socialization and Society*, edited by J. A. Clausen (Boston: Little, Brown, 1968).

² William H. Sewell, "Some Recent Developments in Socialization Theory and Research," *THE ANNALS*, Vol. 349 (September 1963), pp. 163-181.

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through the course of socialization experience. Thus, a tremendously broad range of literature can be subsumed under the concept.

As a field of study, socialization lies within the sphere of interest of anthropology, psychology, and sociology. Each of these disciplines retains certain distinctive emphases in its approach to socialization; each tends to prefer its own phrasings of basically similar concepts and to carve out somewhat different domains for central concern. Thus, anthropologists have tended to be most interested in socialization as enculturation, the transmission of the culture, and have organized much of their approach to the field under the rubric of "culture and personality."³ Interest is in the effect of particular cultural emphases and institutional constellations on the process of socialization and personality development, and on the study of the magnitude of relationships, across cultures, among particular socialization variables and particular aspects of personality or of cultural modes of expression.

Sociologists have tended to be more concerned with the relationships between socialization and the maintenance of social order, the significance of social interaction in the attainment of human nature (with particular emphasis on the development of the social self and of self-other patterns), and the significance of social roles, role recruitment, and role-training for the understanding of behavior. Sociological research on socialization has also examined the socialization of deviant behavior and, more generally, the influence of position within the social structure on socialization experiences. Adult socialization

and resocialization have been of special interest to sociologists.⁴

Within the field of psychology, studies of socialization have tended to be more sharply focused on particular segments of socialization influence. Psychologists have been especially concerned with the application of theories of learning and with establishing the nature of the processes that make the child susceptible to influence, such as identification, the development of conscience, stages or dynamics of cognitive structuring, and the shaping of motivational dispositions in socialization. In general, psychological research has dealt with much smaller segments of influence and, far more than anthropology and sociology, has attempted to establish by rigorous measurements the effects of particular child-rearing practices.⁵

As the range of topics subsumed under the rubric of socialization has increased, more limited domains have been carved out as areas of primary emphasis by various groups of scholars. If the general goal of socialization is to prepare the individual to function as a full-fledged, competent member of society, who perceives, feels, and acts in ways appropriate to his personal characteristics and his placement within the society, there are many subsidiary or more limited goals. Some relate to developmental phases and the preparation

⁴ Sociological emphases are well represented in William H. Sewell, *op. cit.*, and in Frederick Elkin, *The Child and Society: The Process of Socialization* (New York: Random House, 1960).

⁵ Within psychology, much of the research on socialization has been carried out by child psychologists but with strong influences from learning theory and personality theory. For an analysis of approaches and emphases, see Urie Bronfenbrenner, "Developmental Theory in Transition," in Harold W. Stevenson (ed.), *Child Psychology: The Sixty-Second Yearbook of the National Society for the Study of Education* (Chicago: University of Chicago Press, 1963), pp. 517-542.

³ See John J. Honigman and Richard J. Preston, "Recent Developments in Culture and Personality," *THE ANNALS*, Vol. 354 (July 1964), pp. 153-162, for a review of research within this anthropological frame of reference.

of the individual to define and meet the demands of specific situations, as in preparation of the child for school. Other goals entail the preparation of the individual for a general role, such as that of citizen in a democracy, or relate to realms of behavior that are conceptually, rather than substantively, unified (as in the instance of "moral behavior"). In the following pages, we shall touch upon some of these more limited domains that have been receiving intensive exploration and mapping in recent years: political socialization and the related topic of socialization requirements for modernization in developing nations; cognitive development and the related area of sociolinguistics; moral behavior and the related topic of social deviance. We shall also comment on the problematics of competent performance in modern, highly stratified societies (especially as regards those population groups that suffer from economic deprivation and are cut off from the main stream of opportunities), and on socialization and resocialization efforts designed to assist adults to handle difficult life transitions.

The nature of the goals being pursued in socialization will afford our initial basis for examining recent work. Much research in this field examines the effects of particular agents of socialization and the techniques that they employ, or characteristics of the settings and the effects of the larger contexts within which socialization takes place. The family is clearly the primary and most crucial agent of early socialization, and study of the effects of parental practices continues to be the largest single area of research. Increasingly, however, the school is being examined as a crucial instrumentality for preparing individuals—especially the underprivileged—for full social participation and for facilitating desirable social change in developing nations. We shall comment upon

some of the recent work in this area. The peer group, often representing socialization pressures counter to those of adult society, is partly based on the school, partly on the neighborhood. Here again, there has been substantial recent work, though we shall comment only briefly on it. The direct socialization impact of the mass media has been a source of speculation far more than of research, but certainly the media provide both socialization models and indications of prevailing value orientations.

Consideration of developments in this field of research and theory requires attention to the issues of the field and changing conceptualizations of the particular processes or problems under examination. In general, we shall attempt to examine issues and conceptualizations within the context of our primary classification scheme, but will comment on general issues toward the close of the paper.

POLITICAL SOCIALIZATION

Searching discussion of the proper education and training of the citizen is to be found in the writings of the Greek philosophers. Relationships between personality and political orientations have, however, been the subject of research only in recent decades, and the systematic study of political socialization is more recent still.

The political order is characterized by authority, and it was natural that much of the early interest in political socialization should relate to the child's learning to deal with and respond to authority in the family.⁶ More recent work also emphasizes both the acqui-

⁶ For an overview of theory and research on this topic, see Fred I. Greenstein, "Personality and Political Socialization: The Theories of Authoritarian and Democratic Character," *THE ANNALS*, Vol. 361 (1965), pp. 81-95

sition of information about the political order and the socialization experiences that lead to participation in what Almond and Verba term the "civic culture." No recent book in this area has been more influential than *The Civic Culture*,⁷ which draws on data from five countries to demonstrate that political participation and feelings of competence in the civic area are closely related to prior opportunities for participation in family decisions, in classroom discussions, and in decisions within the work setting. Among the countries studied, substantial differences obtain in the extent to which individuals are informed about the political system and believe they can influence governmental policies through participation in the political process.

Children's learning about government tends to begin with an awareness of political leaders, especially the mayor at the local level and the president at the national level.⁸ For the child, political leaders are benevolent figures, regardless of political party. Party preferences are learned early, very largely by the child's simply taking over the parents' identifications, but with little knowledge of the nature of party platforms. Party differences also emerge early, with boys more politically aware and more informed. For both sexes, the father be-

comes the important reference figure.⁹

Nowhere is political socialization more important or more problematic than in rapidly developing countries, especially those that have long experienced colonial regimes. Here the educational system must play a major role in socialization, for parents are likely to be almost totally uninformed.¹⁰ The recruitment and training of teachers is, of course, a major issue, but beyond this, there is the problem of providing the necessary skill-training and a modicum of role experience to civil servants and elected officials. Colson observes, for example, that experience in working for the overthrow of a colonial government would tend to provide a better basis for competent postindependence performance than the fulfilling of subservient roles in a colonial system.¹¹ On the other hand, the pervasive polarization and politicization of relationships and institutions in countries that have thrown off colonialism does not prepare individuals for the development of and participation in nonpartisan governmental institutions.¹² Parenthetically, we may note that it is in the study of societies in transition that one sees most clearly the complexities of the socialization process and the nature of conflicting goals and influences.

SOCIALIZATION FOR COMPETENCE

From civic competence, it is a short step to the more general consideration

⁷ Greenstein, *op cit.*

¹ Gabriel A. Almond and Sidney Verba, *The Civic Culture* (Princeton, N.J.: Princeton University Press, 1963). The large body of data secured by Almond and Verba has received a number of secondary analyses; see, for example, Glen H. Elder, Jr., "Family Structure and Educational Attainment: A Cross-National Analysis," *American Sociological Review*, Vol 30 (1965), pp. 81-96; and Dwaine Marvick, "The Political Socialization of the American Negro," *THE ANNALS*, Vol 361 (September 1965), pp 112-127.

⁸ Fred I. Greenstein, *Children and Politics* (New Haven, Conn: Yale University Press, 1965). See also Robert Hess and Judith V. Torney, *The Development of Political Attitudes in Children* (Chicago: Aldine Press, 1967).

¹⁰ For a general discussion of goals and issues, see Don C. Piper and Taylor Cole (eds.), *Postprimary Education and Political and Economic Development* (Durham, N C: Duke University Press, 1964). Also, Lucian W. Pye, *Aspects of Political Development* (Boston: Little, Brown, 1966).

¹¹ Elizabeth Colson, "Competence and Incompetence in the Context of Independence," *Current Anthropology*, Vol. 8 (1967), pp 92-111.

¹² See Pye, *op. cit.*, pp 19-30.

of adult competence. The conceptualization of competence and the study of its antecedents have, in recent years, derived marked impetus from two sources, one theoretical and the other related to social policy. The first of these was Robert White's proposal that man and other mammals share an intrinsic motive to *effectance* or competence in dealing with the environment.¹³ The other major influence came from a closer look at the consequences of poverty and deprivation, as made more manifest by the postwar migration of the deprived into urban ghettos, coupled with insistent demands for equal opportunity. Full participation in modern industrial society requires the imparting, through the socialization process, of a substantial body of information, skills, and motivational dispositions.¹⁴ The "culture of poverty" does not tend to provide these ingredients. Recent research has begun to document in some detail the nature of specific deficits in socialization experience, especially as they influence cognitive development, motivation, and confidence. Only a small portion of this research has dealt directly with the assessment of socialization influences on the individual child, but the consequences for the larger socialization process are apparent.

Several lines of research and theorizing may be noted. One relates to the general question of how intrinsic motivation to competence can best be nurtured.¹⁵ Does an increase in en-

richment of stimulation and of opportunities to grasp and manipulate objects in the first year lead to the enhancement of visual attention and increased skills? The evidence is that it does, though the longer-term effects remain undemonstrated.¹⁶ Does high parental nurturance lead to competent performance in the preschool child? The evidence is that it tends to, if coupled with high parental demands for performance and with granting a fair measure of independence to the child.¹⁷ Lacking such coupling of parental nurturance and maturity demands, the child is likely to show a lack of self-control and self-reliance.

LANGUAGE AND COGNITIVE DEVELOPMENT

Another line of recent research bearing on competence has dealt with the effects of language and linguistic usage upon the child's cognitive development. Social-class differences in language-learning and in vocabulary have long been under study, but for the most part neither linguists nor students of cognitive development were centrally interested in the effects of socialization practices upon the language and thought of the child. Interest in "sociolinguistics" and speech socialization reflects both theoretical interests and the com-

Child: Social and Psychological Perspectives," *Ibid.*, pp. 249-263.

¹³ Robert W. White, "Motivation Reconsidered: The Concept of Competence," *Psychological Review*, Vol. 3 (1959), pp. 297-333.

¹⁴ See Alex Inkeles, "Social Structure and the Socialization of Competence," *Harvard Educational Review*, Vol. 36 (1966), pp. 265-283.

¹⁵ See, for example, J. McVicker Hunt, "The Psychological Basis for Using Preschool Enrichment as an Antidote for Cultural Deprivation," *Merrill-Palmer Quarterly*, Vol. 10 (1964), pp. 209-248; and Martin Deutsch, "Facilitating Development in the Preschool

¹⁶ Burton L. White and Richard Held, "Plasticity of Sensorimotor Development in the Human Infant," in Judith Rosenblith and Wesley Allinsmith (eds.), *The Causes of Behavior: Readings in Child Development and Educational Psychology* (2nd ed.; Boston: Allyn and Bacon, 1966).

¹⁷ Diana Baumrind, "Child Care Practices Antecedent Three Patterns of Preschool Behavior," *Genetic Psychology Monographs*, Vol. 75 (1967), pp. 43-88; Diana Baumrind and Allen E. Black, "Socialization Practices Associated with Dimensions of Competence in Preschool Boys and Girls," *Child Development*, Vol. 38 (1967), pp. 292-327.

elling nature of class and ethnic-group differentials.¹⁸ Linguists are not in complete agreement as to whether all languages are equally adequate for expressing ideas, but there is a wealth of evidence that individuals and groups differ in the adequacy with which they employ language.¹⁹ Moreover, there is little question but that alternative codes in use within a given language serve somewhat different ends. For example, Bernstein has proposed that "restricted codes," which provide a limited range of alternatives, are characteristic of the working class, while "elaborated codes," which facilitate the introduction of new information, are more characteristic of the urban middle class.²⁰ Bernstein views these codes as leading to different ways of organizing and responding to experience and as being linked to particular patterns of social relationship.

In general, Cazden notes that, whether the research deals with phonology, vocabulary or sentence structure: "On all the measures, in all the studies, children of upper socioeconomic status, however defined, are more advanced than those of lower socioeconomic status."²¹ The child's learning of language seems to depend more on the models to which he is exposed than on

corrective feedback when he makes errors; on both scores the middle-class child is favored.²² It has been suggested that the greater feedback provided the middle-class child makes him more interested in usage and in developing verbal proficiency.²³ Apart from the possible consequences of such differences in language usage in mediating cognitive processes, the child whose use of language is deficient is at a tremendous disadvantage when he reaches school. There is now convincing evidence that many "culturally deprived" children start school with so great a disadvantage as to be unable to learn effectively in the normal classroom.²⁴ Hence developments like Project Headstart, which must surely be the earliest effort at remedial socialization.

Hess and his colleagues, working with Negro mothers of four-year-olds, have observed interaction processes in the family and in experimental situations and have found striking differences between middle-class and working-class mothers in their modes of orienting their children.²⁵ Working-class mothers more often use the imperative, ordering the child to do this or that rather than interpreting the characteristics of the situation to him. Verbal cues are minimal. In telling the child what to expect in school, the working-class mothers

¹⁸ For a linguist's discussion of the analysis of speech socialization, see Dell Hymes, "Models of the Interaction of Language and Social Setting," *The Journal of Social Issues*, Vol. 23, No. 2 (1967), pp. 8-28; also David McNeill, "Developmental Psycholinguistics," in F. Smith and George A. Miller (eds.), *The Genesis of Language: A Psycholinguistic Approach* (Cambridge, Mass.: MIT Press, 1966).

¹⁹ Courtney B. Cazden, "Subcultural Differences in Child Language: An Interdisciplinary Review," *Merrill-Palmer Quarterly*, Vol. 12 (1966), pp. 185-219.

²⁰ Basil Bernstein, "Elaborated and Restricted Codes: Their Social Origins and Some Consequences," in John J. Gumperz and Dell Hymes (eds.), *The Ethnography of Communication* (Special issue, *American Anthropologist*, Vol. 66, No. 6, Part 2 [1964], pp. 55-69).

²¹ Cazden, *op. cit.*, p. 191.

²² For a description of feedback provided by middle-class mothers, see Roger Brown and Ursula Bellugi, "Three Processes in the Child's Acquisition of Syntax," in Eric Lenneberg (ed.), *New Directions in the Study of Language* (Cambridge, Mass.: MIT Press, 1964).

²³ See Vera P. John and Leo S. Goldstein, "The Social Context of Language Acquisition," *Merrill-Palmer Quarterly*, Vol. 10 (1964), pp. 265-275.

²⁴ Norman E. Freeberg and Donald T. Payne, "Parental Influence on Cognitive Development in Early Childhood: A Review," *Child Development*, Vol. 38 (1967), pp. 65-87.

²⁵ Robert D. Hess and Virginia Shipman, "Early Experience and the Socialization of Cognitive Modes in Children," *Child Development*, Vol. 36 (1965), pp. 869-886.

provided far less information that could be used by the child than did middle-class mothers.

Although class and ethnic-group differences in certain aspects of language usage are striking, there is a great deal of diversity in linguistic performance even at the lowest levels of status.²⁶ Moreover, there are other aspects of language usage in which the relatively isolated rural child appears to be more disadvantaged than the urban slum dweller.²⁷ The learning of language and the bearing of one's linguistic competence on one's ability to master other socialization tasks afford one of the most compelling illustrations of the cumulative nature of the socialization process.

IDENTITY AND SELF-ESTEEM

Self-confidence and self-respect would seem to go hand in hand with competent performance. The self has been characterized as a product of reflected appraisals, and the social origins of selfhood have figured centrally in the writings of Mead and Sullivan.²⁸ The formation and stabilization of identity has been a major concern of Erikson, in several highly influential papers.²⁹ Miller's recent attempt to formulate the relationships between identity and social interaction and Rosenberg's research to

establish relationships between social position, social roles, and self-esteem are important elaborations of theory and data, even though both leave us with unresolved problems.³⁰ Higher social status and more effective performance (in school and in other social roles) tend to be associated with higher self-esteem. Miller's formulation regarding the linkages between one's perceived reputation and one's self-esteem has received considerable research confirmation; the communication of favorable appraisals by referent others enhances self-esteem while unfavorable reflections from significant others lead to a decline in self-esteem.³¹ Data from carefully designed experimental studies of school children,³² survey data on the school performance of large numbers of students in all parts of the country,³³ and reports of a wide variety of professionals who work with or have studied disadvantaged minority-group members³⁴

²⁶ Daniel R. Miller, "The Study of Social Relationships. Situation, Identity, and Social Interaction," in Sigmund Koch (ed.), *Psychology: A Study of a Science*, Vol. 5 (New York: McGraw-Hill, 1963); and Morris Rosenberg, *Society and the Adolescent Self-Image* (Princeton, N.J.: Princeton University Press, 1965).

³¹ John J. Sherwood, "Self-Identity and Referent Others," *Sociometry*, Vol. 28 (1965), pp. 66-81; and John R. F. French, Jr., John J. Sherwood and David L. Bradford, "Change in Self-Identity in a Management Training Conference," *Journal of Applied Behavioral Science*, Vol. 2 (1966), pp. 210-218.

³² Irwin N. Katz, "The Socialization of Academic Motivation in Minority-Group Children," in David Levine (ed.), *Nebraska Symposium in Motivation* (Lincoln: University of Nebraska Press, 1967).

³³ James S. Coleman, Ernest Q. Campbell, Carol J. Hobson, James McPartland, Alexander Mood, Frederick D. Weinfeld, and Robert L. York, *Equality of Educational Opportunity* (Washington, D.C.: U.S. Government Printing Office, 1966), pp. 319-325.

³⁴ William C. Kvaraceus and Others, *Negro Self-Concept: Implications for School and Citizenship* (New York: McGraw-Hill, 1965); also George A. DeVos, "Assimilation and

²⁸ Irving E. Sigel and Cereta Perry, "Psycholinguistic Diversity among Culturally Deprived Children," *American Journal of Orthopsychiatry*, Vol. 38 (1968), pp. 122-126

²⁷ Doris R. Entwisle, "Development Sociolinguistics: A Comparative Study in Four Subcultural Settings," *Sociometry*, Vol. 29 (1966), pp. 67-84.

²⁸ George Herbert Mead, *Mind, Self and Society* (Chicago: University of Chicago Press, 1934); and Harry Stack Sullivan, *The Interpersonal Theory of Psychiatry* (New York: W. W. Norton, 1953).

²⁹ Erik H. Erikson, "Identity and the Life Cycle. Selected Papers," *Psychological Issues*, Vol. 1 (New York: International Universities Press, 1959).

all attest to the relationship between social devaluation and self-esteem or feelings of powerlessness on the one hand and that between low self-esteem and competence on the other. Socialization for competence requires, as Brewster Smith has recently observed, dealing with the promotion of benign rather than vicious circles.³⁵

STUDIES OF MORAL DEVELOPMENT

Through socialization, the norms and values of the larger society are not merely transmitted to the child but achieve a compelling quality in his own views of right and wrong. The moral order is, at least in part, incorporated or "internalized" within the psychological structure. Freud's formulation of the development of the superego through the child's identification with his parents is certainly one of the most widely familiar aspects of psychoanalytic theory, but until the last decade or so, social scientists devoted little attention to moral development as such, except for the seminal research of Piaget.³⁶ Recently, however, a marked increase in research in moral development has taken place, partly built upon Piaget's work and partly on learning theory interlaced with psychoanalytic formulations.³⁷

Social Self-Identity in the Japanese Former Outcaste Group," in Mildred B. Kantor (ed.), *Mobility and Mental Health* (Springfield, Ill.: Charles C Thomas, 1965); and Thomas F. Pettigrew and Daniel C. Thompson (eds.), *Negro American Personality*, comprising the entire issue of *Journal of Social Issues*, Vol 20, No 2 (1964).

³⁵ M. Brewster Smith, "Socialization for Competence," in Clausen (ed.), *loc cit.*

³⁶ Jean Piaget, *The Moral Judgment of the Child* (Glencoe, Ill.: Free Press, 1948).

³⁷ For a detailed review, see Lawrence Kohlberg, "Development of Moral Character and Moral Ideology," in Martin L. Hoffman and Lois W. Hoffman (eds.), *Review of Child Development Research*, Vol. 1 (New York: Russell Sage Foundation, 1964), pp. 383-432.

Research on moral development has employed both judgments and behaviors as criteria. Unfortunately, the two types of criteria are not highly related. To test and build upon Piaget's formulations, Kohlberg has presented children of different ages with a series of hypothetical moral dilemmas and has ascertained both the bases for their choices and the correlates of maturity of judgment.³⁸ He suggests that mature moral judgment comes later than moral conduct and is, in general, dependent on age and social participation. The specific features of the stages reported by Piaget receive only partial support, and one of Piaget's central points—that reciprocity in defining one's obligations is largely a product of interaction within the peer group—was not supported by Kohlberg's research.

Learning theorists have been especially concerned with the effects of modeling and of reinforcement on the child's behavior in situations involving issues of morality. Using as indices assessments of conscience, resistance to temptation, self-criticism, delinquency, and the like, they have studied the relationships between such manifestations of morality and parental behaviors or attitudes.³⁹ A recent paper by Maccoby

³⁸ Lawrence Kohlberg, "The Development of Children's Orientations toward a Moral Order, Part I: Sequence in the Development of Moral Thought," *Vita Humana*, Vol. 6 (1963), pp. 11-33. A fuller report of Kohlberg's research is forthcoming in Lawrence Kohlberg, *The Developmental Approach to Moralization* (Chicago: Aldine, in press).

³⁹ See, for example, Justin Aronfreed, "The Origin of Self-Criticism," *Psychological Review*, Vol. 71 (1964), pp. 193-218; Justin Aronfreed and A. Reber, "Internalized Behavioral Suppression and the Timing of Social Punishment," *Journal of Personality and Social Psychology*, Vol. 1 (1965), pp. 3-16; Justin Aronfreed, *Conduct and Conscience: The Socialization of Internalized Control over Behavior* (New York: Academic Press, 1968); Albert Bandura, Joan E. Grusec, and Frances L. Menlove, "Some Social Determinants of

examines theoretical perspectives and issues in this area of research, contrasting developmental and learning theory approaches.⁴⁰

Many ingenious experiments have been devised to assess the child's behavior in situations where moral precepts are at issue and the circumstances and effects of identification with a parent or other role model, but much of this research deals with a very small sample of a narrow range of parental and child behavior. Correlations are low and many results conflicting. The significance of this research for the understanding of psychological processes is probably greater than its significance for understanding the acquisition of moral behavior in every day life. One fairly consistent finding is that parental warmth and affection is a more effective lever for producing both identification of the child with the parent and "moral behaviors" than is parental punitiveness or high power assertion.⁴¹ Yet in one of the most thorough and sophisticated studies of identification, its antecedents, and its behavioral consequences, Sears, Rau, and Alpert find no

support for this proposition.⁴² The children whom Sears studied were younger than most other groups represented in the literature, which may help to explain his negative findings, but they were of the same age as those for whom Baumrind found a strong positive relationship between parental nurturance and competent, affiliative behavior.

Hoffman has discussed some of the possible reasons for inconsistent findings in earlier research on moral development.⁴³ He notes that the most serious inconsistencies tend to occur in studies of preschool children. When multiple measures are used with a single group of preschool children, as in the research of Sears and his coworkers, it is apparent that there is little behavioral generality across measures or situations. Both the child's stage of cognitive development and the influence of contextual variables that overbalance "morality" would seem to be important. One recent experimental study involving older children found that (directly observable) high parental pressure for the child to succeed in a standardized set of task performances was associated with a marked increase in cheating on the part of the child.⁴⁴ Moreover, such parental pressure was most often exerted by parents who had unrealistically high aspirations for their children and who placed a high valuation on the child's obedience.

Very few studies have investigated the content of moral orientations provided

Self-Monitoring Reinforcement Theories," *Journal of Personality and Social Psychology*, Vol. 5 (1967), pp. 449-455; Roger V. Burton, Wesley Allinsmith, and Eleanor E. Maccoby, "Resistance to Temptation in Relation to Sex of Child, Sex of Experimenter, and Withdrawal of Attention," *Journal of Personality and Social Psychology*, Vol. 3 (1966), pp. 253-258; Joan Grusec, "Some Antecedents of Self-Criticism," *Journal of Personality and Social Psychology*, Vol. 4 (1966), pp. 244-252; Martin L. Hoffman and Herbert D. Saltzstein, "Parental Discipline and the Child's Moral Development," *Journal of Personality and Social Psychology*, Vol. 5 (1967), pp. 45-57.

⁴⁰ Eleanor E. Maccoby, "The Development of Moral Behavior," in Clausen (ed.), *loc. cit.*

⁴¹ See Wesley C. Becker, "Consequences of Different Kinds of Parental Discipline," in Hoffman and Hoffman (eds.), *loc. cit.*, and Kohlberg, "Development of Moral Character and Moral Ideology," *op. cit.*, as well as Hoffman and Saltzstein, *op. cit.*

⁴² R. R. Sears, Lucy Rau, and R. Alpert, *Identification and Child-Training* (Stanford, Calif.: Stanford University Press, 1965)

⁴³ Martin L. Hoffman, "Child-rearing Practices and Moral Development: Generalizations from Empirical Research," *Child Development*, Vol. 34 (1963), pp. 295-318

⁴⁴ Leonard S. Pearlin, Marian Radke Yarrow, and Harry A. Scarr, "Unintended Effects of Parental Aspirations: The Case of Children's Cheating," *American Journal of Sociology*, Vol. 73 (1967), pp. 73-83.

the child by his parents, and fewer still have examined both content and the parent-child relationship. Hoffman and Saltzstein have found that the parents' use of "induction"—their attempting to make the child aware of the consequences of his acts for others—tends to be associated with "moral" responses on the part of the child, especially in the middle class.⁴⁵ Rosen has investigated the relationship between the child's position in the family and similarity of values expressed by child and mother; perhaps his most striking finding was that middle-class mothers and children exhibited much greater value similarity than did those from the working class.⁴⁶

Several recent articles have examined the multiple meanings and confusions attaching to the concept of "internalization."⁴⁷ Long regarded by some as the *sine qua non* of socialization, the concept possibly has greater rhetorical than scientific value.

EDUCATIONAL ATTAINMENT

Another active area of research relevant to socialization has been that dealing with educational achievement, and particularly the attainment of higher education. Interest attaches to such questions as the sources of motivation for higher education and the influences of ability, social status and characteristics of personality, parental attitudes, or community contexts upon educational attainment. Turner has examined the sources of various components of ambition and their consequences for youth from various backgrounds.⁴⁸ Both

Turner and Sewell have studied the effect of high school neighborhood context on college plans, achieving reasonably similar findings of modest influence but with somewhat differing interpretations.⁴⁹

Sewell has also followed a cohort of high school graduates through the college years to assess the relative influences of intelligence and socioeconomic status upon plans for college, college attendance, and actual graduation.⁵⁰ For boys, intelligence carries slightly more influence at each stage; for girls, socioeconomic status is the stronger influence on plans and on attendance, though, once in college, intelligence is more highly predictive of graduation. Other recent studies in this area document the influence of achievement motivation (with its roots in parental training practices and family structure) and of peer-group influences.⁵¹

⁴⁹ William H. Sewell and J. Michael Armer, "Neighborhood Context and College Plans," *American Sociological Review*, Vol. 31 (1966), pp. 159-168; and see "Communications" from Ralph H. Turner, John A. Michael, and Richard Boyle and reply by Sewell and Armer in *American Sociological Review*, Vol. 31 (1966), pp. 698-712. Sewell has also studied rural-urban differences in college plans: "Community of Residence and College Plans," *American Sociological Review*, Vol. 29 (1964), pp. 24-38.

⁵⁰ William H. Sewell and Vimal P. Shaw, "Socioeconomic Status, Intelligence, and the Attainment of Higher Education," *Sociology of Education*, Vol. 40 (1967), pp. 1-23.

⁵¹ C. Norman Alexander and Ernest Q. Campbell, "Peer Influences on Adolescent Educational Aspirations and Attainments," *American Sociological Review*, Vol. 29 (1964), pp. 568-575; Charles E. Bowerman and Glen H. Elder, Jr., "Variations in Adolescent Perception of Family Power Structure," *American Sociological Review*, Vol. 29 (1964), pp. 551-567; Elder, *op. cit.*; Irving Krauss, "Sources of Educational Aspirations among Working-Class Youth," *American Sociological Review*, Vol. 29 (1964), pp. 867-869; and Richard A. Rehberg and David L. Westby, "Parental Encouragement, Occupation, Education, Family Size: Artificial or Independent

⁴⁵ Hoffman and Saltzstein, *op. cit.*

⁴⁶ Bernard C. Rosen, "Family Structure and Value Transmission," *Merrill-Palmer Quarterly*, Vol. 10 (1964), pp. 59-76.

⁴⁷ See Maccoby, *op. cit.*; and Ernest Q. Campbell, "The Internalization of Moral Norms," *Sociometry*, Vol. 27 (1964), pp. 391-412.

⁴⁸ Ralph H. Turner, *The Social Context of Ambition* (San Francisco: Chandler, 1964).

The consequences of upward mobility for working-class men attending an upper-status university have been studied by Ellis and Lane, who find evidence of considerable anticipatory socialization but also a period of some stress and deficit in performance during the freshman year, followed by superior performance but somewhat lowered social participation in comparison with upper-status students.⁵² In general, however, upward mobility seems to go hand in hand with successful coping and good personal adjustment.⁵³ Social mobility not only requires anticipatory socialization or resocialization for the individual, but influences the socialization of his children, as well. Using data from a longitudinal study, Smelser has established that the occupational choices made by adolescents were significantly related to their fathers' mobility experience.⁵⁴

SOCIALIZATION IN THE FAMILY

The largest single area of socialization research continues to be the study of child socialization in the family. The early 1960's have seen a tremendous proliferation of studies of the effects of

Determinants of Adolescent Educational Expectations?," *Social Forces*, Vol. 45 (1967), pp. 362-374.

⁵² Robert A. Ellis and W. Clayton Lane, "Structural Support for Upward Mobility," *American Sociological Review*, Vol. 28 (1963), pp. 743-756; Robert A. Ellis and W. Clayton Lane, "Social Mobility and Social Isolation: A Test of Sorokin's Dissociative Hypothesis," *American Sociological Review*, Vol. 32 (1967), pp. 237-253.

⁵³ See Leo Srole, Thomas S. Langner, and Stanley T. Michael, *Mental Health in the Metropolis* (New York: McGraw-Hill, 1962); also Norma Haan, "The Relationship of Ego Functioning and Intelligence to Social Status and Social Mobility," *Journal of Abnormal and Social Psychology*, Vol. 69 (1964), pp. 594-605.

⁵⁴ William T. Smelser, "Adolescent and Adult Occupational Choice as a Function of Family Socioeconomic History," *Sociometry*, Vol. 26 (1963), pp. 393-409

family structure, and especially of birth order, upon the child's personality development. This wave of research received major impetus from Schachter's provocative research on birth order and affiliative needs.⁵⁵ At least four major reviews of this literature have appeared within the last two or three years.⁵⁶ Family size and birth order influence parental expectations, the amount of parental time allocated to the individual child, the nature of role models available, and other features affecting the psychological development of the child; but there are subtle interactions, and most generalizations are of limited scope. Another important facet of family structure that has been much studied is the patterning of authority relationships within the family.⁵⁷

⁵⁵ Stanley Schachter, *The Psychology of Affiliation* (Stanford, Calif.: Stanford University Press, 1959).

⁵⁶ William D. Altus, "Birth Order and its Sequelae," *Science*, Vol. 151 (1966); pp. 44-48; John A. Clausen, "Family Structure, Socialization, and Personality," in Lois W. Hoffman and Martin L. Hoffman (eds.), *Review of Child Development Research*, Vol. 2 (New York: Russell Sage Foundation, 1966), pp. 1-53; Edward E. Sampson, "The Study of Ordinal Position: Antecedents and Outcomes," in B. Maher (ed.), *Progress in Experimental Personality Research*, Vol. 2 (New York: Academic Press, 1965); Jonathan R. Warren, "Birth Order and Social Behavior," *Psychological Bulletin*, Vol. 65 (1966), pp. 38-49.

⁵⁷ Charles E. Bowerman and Glen H. Elder, Jr., "Variations in Adolescent Perception of Family Power Structure," *American Sociological Review*, Vol. 29 (1964), pp. 551-567; Rose Laub Coser, "Authority and Structural Ambivalence in the Middle-Class Family," in Rose Laub Coser (ed.), *The Family: Its Structure and Functions* (New York: St. Martin's Press, 1964); E. Mavis Hetherington and Gary Frankie, "Effects of Parental Dominance, Warmth, and Conflict on Imitation in Children," *Journal of Personality and Social Psychology*, Vol. 6 (1967), pp. 119-125; Allan R. Weinstein, "Family Environment and the Development of Defense and Coping Mechanisms," *Journal of Personality and Social Psychology*, Vol. 5 (1967), pp. 67-75.

Studies of social-class differences in parents' child-rearing practices continue, but with increasing emphasis on linkages between specific features of class position and the value orientations and life-styles of the caretakers.⁵⁸ Pearlin and Kohn find, for example, that certain attributes of the father's job—the kind of supervision received and his primary involvement with ideas, people, or things—account for almost all of the differences in value orientations between middle-class and working-class fathers.⁵⁹

There has been no diminution in the flow of studies relating to the child's learning of his proper gender role. Thus, in reviewing masculine development, Biller and Borstelmann list upwards of 160 papers, of which roughly one-third were published in the last five years.⁶⁰ Maccoby's recent book reviews a very substantial literature on differences between the sexes in behavior and in temperament and examines the biological, cultural, and social-psychological processes underlying such differences.⁶¹ By contrast, the study of socialization for sexual performance in maturity has been almost entirely ignored until very recently; Gagnon's impressive analysis of sexual learning in the child and its relationship to other kinds of socialization experience is a most welcome contribution.⁶² Other recent papers ex-

amine the parent-child conflict in sexual values and the content of manuals on sex, in general designed to enhance the competence of marital partners.⁶³

SOCIALIZATION IN THE SCHOOLS

As an agent of socialization, the school has long ranked just behind the family, but only recently has socialization research encompassed family and school together. The substantial literature on socialization and social structure in the classroom has been recently reviewed by Glidewell and his associates, and the classroom learning environment has been conceptualized and analyzed by another group of investigators.⁶⁴ Luszki and Schmuck have studied pupils' perceptions of parental support and interest in their schoolwork; such support is highest at the lower grades, is related to social status, and correlates significantly with the child's own attitude toward school and his actual performance in school.⁶⁵ Harvey and his associates have examined the relationships between systems of beliefs held by teachers and the kinds of atmospheres created in the school by the teachers.⁶⁶

⁶³ Robert R. Bell, "Parent-Child Conflict in Sexual Values," *The Journal of Social Issues*, Vol. 22 (1966), pp. 34-44, Lionel S. Lewis and Dennis Brissett, "Sex as Work: A Study of Avocational Counseling," *Social Problems*, Vol. 15 (1967), pp. 8-18.

⁶⁴ John C. Glidewell and Others, "Socialization and Social Structure in the Classroom," in Hoffman and Hoffman (eds.), *Review of Child Development Research*, Vol. 2, pp. 221-256; R. Fox and Others, *Understanding Classroom Social Relations* (Chicago: Science Research Associates, 1968).

⁶⁵ Margaret B. Luszki and Richard Schmuck, "Pupil Perceptions of Parental Attitudes toward School," *Mental Hygiene*, Vol. 47 (1963), pp. 289-299; also Richard Schmuck and E. Van Egmond, "Sex Differences and the Relationship of Interpersonal Perceptions to Academic Performance," *Psychology in the Schools*, Vol. 2 (1965), pp. 32-40.

⁶⁶ O. J. Harvey and Others, "Teachers' Belief Systems and Preschool Atmospheres," *Journal of Educational Psychology*, Vol. 57

⁵⁸ Donald G. McKinley, *Social Class and Family Life* (New York: Free Press, 1964)

⁵⁹ Leonard I. Pearlin and Melvin L. Kohn, "Social Class, Occupation and Parental Values: A Cross-National Study," *American Sociological Review*, Vol. 31 (1966), pp. 466-479.

⁶⁰ Henry B. Biller and Lloyd J. Borstelmann, "Masculine Development: An Integrative Review," *Merrill-Palmer Quarterly*, Vol. 13 (1967), pp. 253-295.

⁶¹ Eleanor E. Maccoby (ed.), *The Development of Sex Differences* (Stanford, Calif.: Stanford University Press, 1966)

⁶² John H. Gagnon, "Sexuality and Sexual Learning in the Child," *Psychiatry*, Vol. 28 (1965), pp. 212-228.

The nature of the curriculum materials used in the school and their relationship to the world of boys and of girls, of majority-group members and minority-group members, of city and rural children have been studied in both France and the United States.⁶⁷

Not only do family and school modify and qualify each other's influences, but both interact as well with broader social influences. Few recent social changes have had a greater social impact on the schools than has the move toward racial integration. Bronfenbrenner notes that the consequences of centuries of prejudice and deprivation entail very substantial psychological costs as well as financial costs before true equality can be achieved.⁶⁸ The meaning of integration to Negro and to white children is likely to be an increasingly important topic of socialization research.⁶⁹

Socialization and sorting processes within the educational system have been studied intensively in Great Britain,

(1966), pp. 373-381; O J Harvey and Others, "Teachers' Beliefs, Classroom Atmosphere, and Student Behavior," *American Educational Research Journal*, Vol. 5 (1968).

⁶⁷ For the United States: Gaston E. Blom, Richard R. Waite and Sara Zimet, "Ethnic Integration and Urbanization of a First-Grade Reading Textbook: A Research Study," *Psychology in the Schools*, Vol. 4 (1967), pp. 176-181; and Richard R. Waite and Others, "First-Grade Reading Textbooks," *The Elementary School Journal*, Vol. 67 (1967), pp. 366-374. For France: Marie-Jose Chombart de Lauwe, "Convergences et divergences des modèles d'enfants dans les manuels scolaires et dans la littérature enfantine," *Psychologie Française*, Vol. 10 (1965), pp. 236-244; Suzanne Mollo, "Convergences et divergences du modèle d'enfant idéal dans les manuels scolaires et les livres de lecture," *Psychologie Française*, Vol. 10 (1965), pp. 226-235.

⁶⁸ Urie Bronfenbrenner, "The Psychological Costs of Quality and Equality in Education," *Child Development*, Vol. 38 (1967), pp. 909-925.

⁶⁹ Robert Coles, "Northern Children under Desegregation," *Psychiatry*, Vol. 31 (1968), pp. 1-15.

where selection for higher education takes place at a much earlier age than in the United States. In a report as yet unpublished, Himmelweit and Sealy review recent research on differences in educational performance, personality adjustment, and career development associated with type of school attended, the effects of streaming (ability grouping), of school climate, of parental encouragement of the child's educational aspirations, and the interactions of these variables in different samples of students.⁷⁰ Jackson, along with others, finds that streaming penalizes less advanced youngsters who would otherwise benefit from the stimulus of bright, well-prepared students, and Douglas, in a study of major importance, examines the interrelationships between family background, school placement, intelligence quotient and personality, using longitudinal data.⁷¹ Differences between the British and American systems in their influences on mobility have also been of interest to American scholars.⁷²

When one turns to research on the socialization influences of the high school, inevitably the peer group and the student culture become a part of the picture. Barker and Gump have

⁷⁰ Hilde T. Himmelweit and A. Philip Sealy, "The School as an Agent of Socialization" (Mimeographed report prepared for the Social Sciences Research Council, 1966.) See also Hilde T. Himmelweit and Judy Wright, "The School System, Social Class, and Attainment after School," in *Sociology 1967* (London, 1968).

⁷¹ For example, Brian Jackson, *Streaming: An Education System in Miniature* (London: Routledge and Kegan Paul, 1965); J W B Douglas, *The Home and the School: A Study of Ability and Attainment in the Primary School* (London: Macgibbon and Kee, 1964).

⁷² Glen H. Elder, Jr., "Life Opportunity and Personality: Some Consequences of Stratified Secondary Education in England," *Sociology of Education*, Vol. 38 (1965), pp. 173-202; Ralph Turner, "Acceptance of Irregular Mobility in Britain and the United States," *Sociometry*, Vol. 29 (1966), pp. 334-352.

ascertained levels of student participation in the various activities available to students of large and small high schools, finding both greater participation and greater satisfaction among students in smaller high schools.⁷³ Stinchcombe has examined the correlates of rebelliousness among high school students; he sees such rebelliousness as a reaction to lack of articulation between the high school culture and the student's perception of his own future.⁷⁴ In a study of a continuation school, Elder notes the advantages of cross-age socialization influences, and Lippitt and Lohman suggest that similar advantages are found in the use of older students as teachers' aides in elementary school.⁷⁵ Another recent study suggests that, contrary to earlier reports, participation in interscholastic athletics while in high school enhances the probability that a boy will decide to go to college.⁷⁶ The socialization of college freshmen has been studied by Wallace, who finds that the values and norms of the student culture tend to be taken over early in the freshman year.⁷⁷

Several recent reviews cover the socializing influence of peer relations from the preschool period through adoles-

cence.⁷⁸ Much of the research on peer-socialization influences during the adolescent years focuses upon deviance, but characterizations of delinquent subcultures are giving way to more sophisticated studies of group processes.⁷⁹ Adolescent socialization entails participation in a wide variety of groups, many selected by the individual undergoing socialization.⁸⁰ It becomes increasingly difficult to separate contextual effects from the direct efforts of socialization agents to influence the individual. An impressive effort to achieve such differentiation is found in Jessor's recent research on deviance.⁸¹

ADULT SOCIALIZATION

Brim and Wheeler have provided the first reasonably systematic, if brief, overview of the study of adult socialization.⁸² Brim notes the need for socialization after childhood in rapidly changing societies, examines the nature of changes in content of socialization

⁷³ Roger G. Barker and Paul V. Gump, *Big School, Small School* (Stanford, Calif.: Stanford University Press, 1964).

⁷⁴ Arthur L. Stinchcombe, *Rebellion in a High School* (Chicago: Quadrangle Books, 1965).

⁷⁵ Glen H. Elder, Jr., "Age Integration in an Educational Setting," *Harvard Educational Review*, Vol. 37 (1967), pp. 594-619; Peggy Lippitt and J. E. Lohman, "Cross-Age Relationships—An Educational Resource," *Children*, Vol. 12 (1966), pp. 113-117.

⁷⁶ Richard A. Rehberg and Walter E. Schafer, "Participation in Interscholastic Athletics and College Expectations," *American Journal of Sociology*, Vol. 73 (1968).

⁷⁷ Walter L. Wallace, "Institutional and Life-Cycle Socialization of College Freshmen," *American Journal of Sociology*, Vol. 70 (1964), pp. 303-318; also, by the same author, *Student Culture* (Chicago: Aldine, 1966).

⁷⁸ Joan W. Swift, "Effects of Early Group Experience: The Nursery School and the Day Nursery," and John D. Campbell, "Peer Relations in Childhood," in Hoffman and Hoffman (eds.), *loc. cit.*, Vol. 1, and Elizabeth Douvan and Martin Gold, "Modal Patterns in American Adolescence," in *Ibid.*, Vol. 2, pp. 469-528.

⁷⁹ David Matza, *Delinquency and Drift* (New York: John Wiley and Sons, 1964); James H. Short, Jr., and Fred L. Strodbeck, *Group Process and Gang Delinquency* (Chicago: University of Chicago Press, 1965).

⁸⁰ Elizabeth Douvan and Joseph Adelson, *The Adolescent Experience* (New York: John Wiley, 1966); Muzafer Sherif and Carolyn W. Sherif, *Reference Groups: Explorations into Conformity and Deviation of Adolescents* (New York: Harper and Row, 1964); Muzafer Sherif and Carolyn W. Sherif (eds.), *Problems of Youth: Transition to Adulthood in a Changing World* (Chicago: Aldine, 1965).

⁸¹ Richard Jessor and Others, *Society, Personality and Deviant Behavior: A Study of a Tri-Ethnic Community* (New York: Holt, Rinehart and Winston, 1968).

⁸² Orville G. Brim, Jr., and Stanton Wheeler, *Socialization after Childhood: Two Essays* (New York: John Wiley and Sons, 1966).

(especially that from concern about motives to concern about behavior), and discusses relationships between individuals being socialized into new adult roles and the agents who influence and induct them.⁸³ Wheeler analyzes the different types of formally organized socialization settings in which adults are "processed" and discusses how the characteristics of recruits, goals, and organizational structures influence movement through the organization.⁸⁴ Becker considers the nature of personal change in adult life and argues that such change is often considerable but is best understood as a response to situational constraints, and not as a reflection of basic personality processes.⁸⁵ On the other hand, changes at deeper levels of personality during the adult years may be much less rare than had been assumed; the study of such changes reveals that both contextual effects and persons motivated to modify the behavior of others operate as socialization influences throughout life.⁸⁶

Studies of occupational preparation are, *par excellence*, studies of adult socialization. Levinson has proposed a number of components that must be taken into account if one is to develop a general model of socialization through such research.⁸⁷ Vincent has presented

evidence of substantial personality change after marriage in response to the socializing influence of one's spouse.⁸⁸ Socialization within the marital relationship is also discussed by Komarovskiy in her study of working-class wives.⁸⁹ In another very recent overview, Brim considers the range of socialization requirements faced by older persons, including the demands of occupation, marriage, parenthood, and geographic or social mobility.⁹⁰ Aging, in and of itself, carries certain normative expectations which serve as constraints upon the individual.⁹¹ Thus, in adult socialization, as in child socialization, the domains of research interest continue to broaden.

RESEARCH IN OTHER COUNTRIES

Cross-cultural and cross-national studies of various aspects of socialization have continued to multiply,⁹² and, in addition, we are beginning to get overviews of socialization research conducted in a number of countries. Chom-bart de Lauwe has delineated the main trends in French research on the socialization of the individual, but has ex-

nal of Health and Social Behavior, Vol. 8 (1967), pp. 253-263

⁸⁸ Clark E. Vincent, "Socialization Data in Research on Young Marriers," *Acta Sociologica* (August 1964).

⁸⁹ Mirra Komarovskiy, *Blue-Collar Marriage* (New York: Random House, 1964)

⁹⁰ Orville G. Brim, Jr., "Adult Socialization," in Clausen (ed.), *Socialization and Society*, loc. cit.

⁹¹ Bernice L. Neugarten et al., "Age Norms, Age Constraints, and Adult Socialization," *American Journal of Sociology*, Vol. 70 (1965), pp. 710-717.

⁹² In addition to works previously cited, see Leigh Minturn and William W. Lambert, *Mothers of Six Cultures: Antecedents of Child-Rearing* (New York: John Wiley & Sons, 1964); also Donald R. Peterson and Giuseppe Miglione, "Pancultural Factors of Parent Behavior in Sicily and the United States," *Child Development*, Vol. 38 (1967), pp. 967-991.

⁸³ Orville G. Brim, Jr., "Socialization through the Life Cycle," in Brim and Wheeler, *op cit*

⁸⁴ Stanton Wheeler, "The Structure of Formally Organized Socialization Settings," in Brim and Wheeler, *op cit*

⁸⁵ Howard S. Becker, "Personal Change in Adult Life," *Sociometry*, Vol. 27 (1964), pp. 40-53

⁸⁶ See Philip Worchel and Donn Byrne, *Personality Change* (New York: John Wiley and Sons, 1964); Bernice L. Neugarten, "A Developmental View of Adult Personality," in James E. Birren (ed.), *Relations of Development and Aging* (Springfield, Ill.: Charles C. Thomas, 1964)

⁸⁷ Daniel J. Levinson, "Medical Education and the Theory of Adult Socialization," *Jour-*

pressed reservations about the concept "socialization," with its suggestion of societal coerciveness.⁹³ Klein has reviewed some of the major British research on socialization in the family, while (as noted previously) Himmelweit and Sealy present a thorough overview and analysis of British research on the school as an agent of socialization.⁹⁴ German research on the topic has been relatively meager; it has been catalogued and briefly reviewed by Baumert and Karl.⁹⁵ Studies in Norway and in India have also been summarized.⁹⁶

CONCLUDING OBSERVATIONS

Roger Brown has stated that socialization "may reasonably be designated the central topic of social psychology,"⁹⁷ and has devoted four chapters of his excellent textbook to the topic. As long as one focuses attention on the training, orienting, controlling and, in general, influencing of the child along ways approved in the society or in any

of its constituent groups, the concept seems manageable, if broad. But when one turns from purposive influences within the family and school to consideration of the effects of language usage or of value orientation in a given social milieu, concern with socialization is indistinguishable from, or at least markedly overlaps, the fields of culture and personality, sociolinguistics, deviance, and personal adjustment.⁹⁸ The question that we must eventually face is whether every demand for behavioral adjustment or change is to be labeled socialization, or, if not, where we are to draw the line.

It becomes ever more evident that the social and psychological development of the individual depends on his place in the social organization as well as upon his inherent potentials. This is reflected in the titles of a number of recent collections—Parsons' *Social Structure and Personality*, the Smelsers' *Social Systems and Personality*, and Ullman's *Sociocultural Foundations of Personality*.⁹⁹ We are far from having an adequate theoretical framework for the study of personality development within complex social structures, but progress toward such a framework is being made.¹⁰⁰ One step toward such progress is a degree of codification of research and theory. The large number of arti-

⁹³ Paul H. Chombart de Lauwe, "The Interaction of Person and Society," *American Sociological Review*, Vol. 31 (1966), pp. 237-248; John A. Clausen, "Research on Socialization and Personality Development in the United States and France: Remarks on the Paper by Professor Chombart de Lauwe," *American Sociological Review*, Vol. 31 (1966), pp. 248-257.

⁹⁴ Josephine Klein, *Samples from English Culture* (2 vols.; London: Routledge & Kegan Paul, 1965).

⁹⁵ Gerhart Baumert and Heinz Karl, "German Research on Socialization: A Bibliography" (Marburg, Germany, 1963), Mimeographed. See John A. Clausen, "A Historical and Comparative View of Socialization Theory and Research," in Clausen (ed.), *Socialization and Society*, loc. cit., for a fuller discussion of this review.

⁹⁶ Eric Grönseth, "Research on Socialization in Norway," *Family Process*, Vol. 3 (1964), pp. 302-322; B. Narain, "Growing Up in India," *Family Process*, Vol. 3 (1964), pp. 148-152.

⁹⁷ Roger Brown, *Social Psychology* (New York: Free Press, 1965), p. 193.

⁹⁸ One might add reference to the often unwitting effects of models, whether personal or in the mass media. An important work attesting to such effects is Albert Bandura and Richard A. Walters, *Social Learning and Personality Development* (New York: Holt, Rinehart & Winston, 1963).

⁹⁹ Talcott Parsons, *Social Structure and Personality* (New York: Free Press, 1964); Neil J. Smelser and William T. Smelser, *Personality and Social Systems* (New York: John Wiley and Sons, 1963); Albert D. Ullman, *Sociocultural Foundations of Personality* (Boston: Houghton Mifflin, 1965).

¹⁰⁰ See, for example, J. Milton Yinger, *Toward a Field Theory of Behavior* (New York: McGraw-Hill, 1965).

cles reviewing the evidence accumulating in various subareas of the field of socialization is a start toward such codification. A dozen or more of the chapters in the Hoffmans' two-volume *Review of Child Development Research* deal with facets of the socialization of the child; they attest to a considerable body of knowledge that has a solid empirical base, despite conflicting findings in some areas.

Assessment of the current status of research and theory in this field has been a concern of the Committee on Socialization and Social Structure of the Social Science Research Council, which has sponsored a number of conferences and work-groups to consider important problem areas. Some of the topics and issues explored by the Committee receive intensive discussion in *Socialization and Society*, which will appear shortly after this review. The most authoritative set of theoretical and substantive analyses of the field to date will appear later in the year, with the publication of the *Handbook of Socialization Theory and Research*.¹⁰¹

This review has cited only a small portion of the relevant literature. It has inevitably reflected the writer's interests and biases, but some omissions are due simply to lapses of memory in the face of a deadline. The trends noted by Sewell five years ago largely continue in effect. In addition, one may note scholars' increased attention to the content being transmitted and to salient features of the socialization context rather than being content with reports of the intentions and perceptions of social-

ization agents. Observational studies are becoming more frequent.¹⁰² More and more workers are realizing that small, segmental studies do not adequately reflect the socialization process; influences in one socialization setting modify the meaning of "inputs" in another. Yet, relatively few studies have sufficient scope to deal with interaction effects. To date, the characteristics of the individual organism have been largely neglected, though developments in behavioral genetics and in comparative psychology and ethnology suggest that those characteristics may markedly influence the impact of socialization experiences.¹⁰³

At several points in this review we have noted that social policy considerations have influenced research emphases in the field of socialization. One may also discern a shift from concern with child behavior or intermediate outcomes to concern with implications for adult functioning. Inkeles has argued cogently for increased attention to the socialization antecedents of those adult characteristics that have relevance for the individual's ability to fulfill social roles that may be demanded of him.¹⁰⁴ We would predict more efforts in this direction in the coming decade.

¹⁰² For example, in the studies by Baumrind, by Sears, *et al.*, and by Pearlin, *et al.*, previously cited.

¹⁰³ See, for example, David C. Glass (ed.), *Genetics* (New York: Rockefeller University Press and Russell Sage Foundation, 1968); James N. Spuhler (ed.), *Genetic Diversity and Human Behavior* (Chicago: Aldine, 1967); John A. Clausen, "The Organism and Socialization," *Health and Social Behavior*, Vol. 8 (1967), pp. 243-252.

¹⁰⁴ Alex Inkeles, "Society, Social Structure and Child Socialization," in Clausen (ed.), *Socialization and Society*, *loc. cit.*

¹⁰¹ David A. Goslin (ed.), *Handbook of Socialization Theory and Research* (Chicago: Rand, McNally, in press).

Report of the Board of Directors to the Members of the American Academy of Political and Social Science for the Year 1967

MEMBERSHIP in the Academy
continues to increase.

YEARLY OPERATIONS INCOME AND
EXPENDITURES¹

MEMBERSHIP AS OF DECEMBER 31			Year	Income	Expenditures	Surplus
Year	Number	% Increase Over 1960				
1961	14,145	4.5	1961	\$ 142,313	\$ 135,116	\$ 7,197
1962	14,736	8.9	1962	157,762	149,827	7,935
1963	15,890	17.4	1963	178,869	168,754	10,115
1964	18,191	34.4	1964	197,140	178,511	18,629
1965	20,071	48.3	1965	233,762	194,880	38,882
1966	21,043	55.4	1966	248,816	211,207	37,609
1967	23,440	73.1	1967	299,621	256,923	42,698
FINANCES				<u>\$1,458,283</u>	<u>\$1,295,218</u>	<u>\$163,065</u>

Our bank balance at the end of 1967
was \$63,830.50.

* Does not include purchases of securities,
but includes income from securities.

SIZE OF SECURITIES PORTFOLIO (Market Value as of 31 December)

1961	\$363,226
1962	376,509
1963	415,091
1964	442,284
1965	491,817
1966	462,675
1967	481,123

STATEMENT OF INCOME AND EXPENSE FOR THE YEAR ENDING DECEMBER 31

	1967	1966
REVENUE		
Dues and Subscriptions		
Membership Dues	\$157,265.31	\$119,954.09
Subscriptions	69,320.12	65,694.50
Sales of Publications	31,499.45	27,339.83
Monograph Sales	5,203.98	2,158.69
Advertising and Royalties	14,828.53	14,087.93
Interest and Dividends	21,503.70	19,580.80
TOTAL REVENUE	299,621.09	248,815.84

EXPENSE

Membership—Records	17,665.70	12,604.22
Promotion	41,419.98	41,032.24
Annals—Production Costs	115,704.79	97,101.41
Sales Costs	8,376.52	8,382.13
Accounting and Finance Costs	4,821.44	5,327.68
Office Operation	21,922.69	19,401.82
Philadelphia Meeting	11,147.71	8,904.34
Advertising	2,938.12	3,472.81
Monographs	26,332.62	7,809.59
Payroll Taxes	3,967.66	3,491.83
TIAA	550.08	1,079.31
Adult Education Program	1,400.00	2,600.00
Special Meetings	675.71	—0—
TOTAL CASH EXPENSE	256,923.02	211,207.38

EXCESS OF CASH REVENUE OVER EXPENSES OF

OPERATIONS	42,698.07	37,608.46
Less: Depreciation on buildings and office equipment	3,217.00	3,120.00
NET PROFIT FROM OPERATIONS	39,481.07	34,448.46

OTHER REVENUE

Profit on sales of investments	—0—	2,861.47
NET INCOME TRANSFERRED TO SURPLUS	\$39,481.07	\$37,349.93

PUBLICATIONS

NUMBER OF VOLUMES OF THE ANNALS SOLD

NUMBER OF VOLUMES OF THE ANNALS PRINTED
(6 PER YEAR)(IN ADDITION TO MEMBERSHIPS
AND SUBSCRIPTIONS)

1961	96,956
1962	101,168
1963	106,394
1964	115,416
1965	119,681
1966	133,056
1967	134,788

1961	11,132
1962	14,496
1963	12,438
1964	15,247
1965	12,492
1966	18,063
1967	19,061

MONOGRAPHS PUBLISHED

<i>Date</i>	<i>Subject</i>	<i>Number Printed</i>	<i>Number Sold*</i>	<i>Number Given Away</i>
1962	Behavioralism	14,228	4,828	9,400
1963	Mathematics	30,166	2,220	27,946
1963	Public Service	17,230	1,140	16,090
1964	Leisure	37,488	3,307	33,256
1965	Functionalism	43,384	2,010	41,374
1966	Political Science	20,000	3,215	14,827
1967	Urban Society	22,578	471	19,577

* As of December 1967.

During 1967 the six volumes of THE ANNALS dealt with the following subjects:

- January *World Population*, edited by John D. Durand, Professor of Economics, University of Pennsylvania, Philadelphia, Pennsylvania.
- March *National Character in the Perspective of the Social Sciences*, edited by Don Martindale, Professor of Sociology, University of Minnesota, Minneapolis, Minnesota.
- May *Social Goals and Indicators for American Society* (Volume I), edited by Bertram M. Gross, Professor of Political Science, Syracuse University, Syracuse, New York.
- July *Realignments in the Communist and Western Worlds*, edited by James C. Charlesworth, President of the Academy.
- September *Social Goals and Indicators for American Society* (Volume II), edited by Bertram M. Gross.
- November *Combating Crime*, edited by Lloyd E. Ohlin, Professor of Criminology, Law School, Harvard University, Cambridge, Massachusetts, and Henry S. Ruth, Jr., Associate Professor of Law, Law School, University of Pennsylvania, Philadelphia, Pennsylvania.

Special supplementary articles have been published in some of these volumes. They were "Recent Trends in Ethnology," by Robert T. Anderson, Associate Professor of Sociology and Anthropology, Mills College, and "Recent Trends: Deviant Behavior and Social Control," by David J. Bordua, Associate Professor of Sociology, University of Illinois, in the January 1967 volume; "Econometrics and Model-Building," by Carl F. Christ, Professor of Economics, Johns Hopkins University, in the March 1967 volume; "Chinese and Japanese Historiography: Some Trends, 1961-1966," by Arthur Frederick Wright, Charles Seymour Professor of History, Yale University, and John Whitney Hall, Whitney Griswold Professor of History, Yale University, in the May 1967 volume; "American

Party Politics, Elections, and Voting Behavior," by Hugh A. Bone, Professor of Political Science, University of Washington, in the July 1967 volume; "Language and Communication," by John J. Gumperz, Professor of Anthropology, University of California, Berkeley, in the September 1967 volume; and "Recent Developments in Research on Social Institutions," by Robin M. Williams, Jr., Henry Scarborough Professor of Social Science, Cornell University, in the November 1967 volume.

As planned so far, the publication program for 1968 includes, in addition to the January volume on *Women Around the World*, edited by Althea K. Hottel, President, International Federation of University Women, and the March volume on *Sex and the Contemporary American Scene*, edited by Edward Sagarin, Assistant Professor of Sociology, City College of New York, the following volumes:

- May *The Ombudsman or Citizen's Defender: A Modern Institution*, edited by Roy V. Peel, Professor of Political Science, San Fernando Valley State College, Northridge, California.
- July *The Changing American People: Are We Deteriorating or Improving?*, edited by James C. Charlesworth.
- September *Paying for Democracy*, edited by Alfred G. Buehler, Professor of Political Science, University of Pennsylvania, Philadelphia, Pennsylvania.
- November *The Future of Corrections*, edited by John P. Conrad, Chief of Research, Bureau of Prisons, United States Department of Justice, Washington, D.C.

The rotating summaries of social science disciplines, established in 1961, are being continued.

During 1967 the Book Department of THE ANNALS published 463 reviews. The majority of these reviews, 373, were written by college or university presi-

dents, deans, professors, or lecturers, 40 by members of private and university-sponsored research organizations, 20 by government and United Nations officials, active or retired, and 30 by others. Most reviewers were residents of the United States, but some were residents of Canada, England, France, Germany, Gibraltar, Hong Kong, India, Italy, Japan, the Netherlands, New Zealand, and Wales. One thousand and fifty-nine books were listed in the Other Books section.

One hundred and ninety-nine requests were granted to reprint material from THE ANNALS. One hundred and eight of these were to professors and other authors for use in books under preparation, and twelve were to journals. Twenty-eight requests were granted for classroom and adult education programs. Twenty-five requests came from various departments of the government, including nine from the armed forces and seventeen from foundations and research institutions.

MEETINGS

The 1967 Spring Meeting, organized around the theme *Realignments in the Communist and Western Worlds*, sustained the traditions of our meetings in respect to the size of audiences, the interest displayed, and the great diversity of organizations represented by delegates. Twenty-eight countries sent official delegations, also missions to the United Nations, 11 public jurisdictions, 14 federal governmental agencies, 211

American and foreign universities and colleges, and 161 international, civic, scientific, and commercial organizations. Approximately eight hundred different persons attended one or more of the sessions. A typical attendance for a session was between six hundred and seven hundred.

The subject for the 1968 Spring Meeting (April 5 and 6 in the Benjamin Franklin Hotel, Philadelphia) will be *The Changing American People: Are We Deteriorating or Improving?*. The July volume of THE ANNALS will contain the papers presented at the meeting.

OFFICERS AND STAFF

Messrs. Charlesworth, Eiseley, Phillips, and Staats were re-elected to three-year terms as Directors.

Respectfully submitted,

THE BOARD OF DIRECTORS

Thorsten Sellin
Stephen B. Sweeney
Norman D. Palmer
James C. Charlesworth
Howard C. Petersen
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Karl R. Bopp
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Philadelphia, Pennsylvania

31 December 1967

Book Department

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INTERNATIONAL RELATIONS

SMITH SIMPSON. *Anatomy of the State Department*. Pp. viii, 285. Boston: Houghton Mifflin, 1967. \$5.95.

It is readily apparent from a reading of this critique of the Department of State that the author has agonized over his subject in an ardent desire to improve the Foreign Service conditions he finds so unsatisfactory. The title suggests something of vivisection, a purpose of rendering apart, and of reconstructing. It reflects, too, something of our present restless era.

The author discusses at length recent Congressional attitudes vis-à-vis the State Department and affirms that because of Congressional dissatisfaction this department has not received the funds required for effective operation. Yet Congressional failure to provide adequate funds is not novel or exceptionally relevant to prevailing conditions. Just as one example, and there is a long list, I recall that over one hundred years ago, the highest grade in our diplomatic service was that of Minister Plenipotentiary, and it was felt on that account that the usefulness of many of our representatives abroad was impaired, and some were humiliated. It must also be said that no Foreign Service in the world is materially provided for as generously as the American.

The volume provides the reader with a painstaking analysis of our Department of State and its Foreign Service. The author lays great stress on the institutional character of the Department and attaches high value to the organizational approach. This is a world of men and women, and ours is a very free society. But, despite the formal educational advantages an individual might enjoy, not everyone will develop into a modern version of a Talleyrand or a Franklin. Even these two men were not the products of institutional training, though Talleyrand did study for the priesthood, as did Stalin. The author seems to believe that an organizational type of training in the Department will produce a fairly large number of exceptional officers. This reviewer believes that more is needed: exposure to events—Talleyrand the French Revolution; Franklin the American Revolution—and problems. This alone, given a basic education, will yield a quota of unusual men.

It does not shock me that the President may turn, on occasion or even often, to the Secretary of Defense, or any other Cabinet member for advice and guidance on a given subject. Under our constitution the President is personally charged with the conduct of our foreign affairs. But so much depends on his personality, and each president, and each Secretary of State,

operates differently. There is the situation when he falls ill, as did President Franklin Roosevelt over a period of months before his death toward the end of the war; General George Marshall, then Chief of Staff, certainly not a volunteer but enjoying the President's confidence, fortunately stepped into the breach and grasped many decisions that would normally have fallen into the hands of the President and the Secretary of State. Marshall just happened to be the right man at the right time.

I wish the author had found a different approach to express his dissatisfaction rather than the repetitive comments on State and Foreign Service officers, as being self-satisfied, keeping their noses clean, interested principally in promotions, constituting a pyramidal mass, and other similar reflections. In comparison with the foreign office establishments of other nations, and in this world everything is relative, I do not believe that the quality of our personnel in this field suffers.

I find myself in harmony with a number of things which needed saying and which the author puts well. Diplomacy is not conducted well by battalions or regiments. Ellis Briggs' comments are well taken, and now Ambassador Tuthill's Operation Topsy seems to enjoy Dean Rusk's valuable support.

I note with especial pleasure the author's recommendation in favor of a general manager. At the end of the Eisenhower Administration some had hoped that a formula had been found with the establishment in the Department of a Number Three man in the position of Under Secretary for Political Affairs. This would be the top post to which the career man could aspire, and he would be chosen by a process of hard selection among the best, experienced officers. Of course, it was not an original idea, but rather a copy of the British Permanent Under Secretary. But it would denote a continuity, a permanence, an authority, and an intimate knowledge based on years of contact and experience. Only that kind of person could possibly qualify under the author's well-stated condition that he must be "sophisticated enough" so that the President and the Sec-

retary of State could work comfortably with him.

ROBERT MURPHY

New York City

GEORGE F. KENNAN. *Memoirs, 1925-1950*. Pp. 583. Boston: Little, Brown, 1967. \$10.00.

George F. Kennan, who joined the Foreign Service in 1925, became one of its early experts on Russia, served as the first head of the State Department's policy planning staff, and spent sixteen months as ambassador to the Soviet Union and some two years as ambassador to Yugoslavia, was always something of an enigma to his colleagues. They never knew how much of his insight was emotional generalization. He also had a disturbing way of permitting eloquence to lead him into sweeping views which clearly did not meet the practical demands of the immediate international situation. The "borderline, between external and internal reality," to use his own phrase, was not always clear. In some ways, he reminded at least one of his colleagues of Edmund Burke, another Irishman of great intellect and insight who handicapped himself by emotional propensities.

How great was Kennan's influence on foreign policy is difficult to say, but he set an example of a highly intelligent, well-read, analytical officer, thereby challenging many of the prevailing attitudes of colleagues. He made them stop to think rather than indulging their inclination to improvise from day to day. He challenged them to adduce and to rethink their hidden, unspoken assumptions. As a genuine, indefatigable seeker of the truth, he challenged them to be more concerned with getting at the facts and their meaning than with getting promoted. His historical mind led him to pursue the facts of the past, which made contemporary ones explicable, and challenged his colleagues to search for the continuum of national interests and objectives, national traits of character and diplomacy.

With perhaps the single exception of the Marshall Plan, this challenge of attitudes and conventional approaches to problems

was more notable than Kennan's contributions to the substance of foreign policy. The "containment" policy, which he is often credited with having initiated or greatly shaped, was already in effect when he joined the Department's policy-planning staff. One must not make the mistake, however, of construing his career as one principally of frustration, as some reviewers have. The challenge of attitudes and approaches was positive and Kennan's courageous persistence made it a continuing one throughout his career. The real tragedy, I have often thought, was that Kennan was never appointed to the staff of the Foreign Service Institute, where his large concepts and stimulating analyses could have reached a large number of colleagues and set in motion an impact upon our diplomatic establishment, which would have continued after his retirement. He could have been another Alfred T. Mahan.

Kennan never sought such an assignment, and there is no evidence he so much as thought of it. He shared his colleagues' astonishing preoccupation with foreign policy and disdain for training in diplomacy and its techniques. "Just get the right policy set and we've got it made" was, and still is, the prevailing view inside and outside of the State Department, and "planners" are peculiarly susceptible to this kind of mesmerism. Since he perceived the importance of the political objectives and techniques of the Communist bloc, this was an extraordinary blind spot for him, but it was a common one in the establishment. In this respect, Kennan the uncommon was oddly common.

Thus it is that while Kennan made a great and courageous effort to contest the military thinking which, after having become so vigorous in our wartime diplomacy, asserted itself dynamically thereafter, he failed to win any major or sustained breakthrough. He rightly emphasized the political nature of the Soviet and Communist threat long before his political and military associates recognized it, but because he never thought of getting any studies of this problem into the curriculum of the Foreign Service Institute, never thought of pressing for the training of

diplomatic officers in politico-military affairs, and never thought of a RAND Corporation for diplomacy, his effort was largely individualistic, and it evaporated when he himself retired.

The impact which military thinking had upon our postwar foreign policies brings to light another striking characteristic of Kennan's thinking. He did not come to grips with some of the profound questions which this impact presented. For example, if the enemy masses troops in eastern Europe, is one wise to erect no shield? Kennan argued that the enemy did not really intend to use these troops but was interested only in political goals. However correctly this may have characterized Soviet intentions, is the factor of intention as simple as this? Assuming that this deployment of troops is only a political maneuver, what may be its psychological effects upon both the Soviets and the West? Might the Soviets not be tempted by the absence of an adequate shield to alter an intention to refrain from force when negotiations on difficult issues reached an impasse? Have the Russians not shown—as in Hungary—they are capable of using force? There is also the technique of employing small amounts of force, as in the interception of traffic to and from Berlin as a means of harassment. If we lack the force, what techniques of political and economic diplomacy do we possess to challenge such harassment? Kennan disposes of this basic issue with what seems a little too cavalier an eloquence of generalization.

There is a kind of genius which winds an individual up into so taut an interplay of intellect and emotion as to lead him to express himself in a torrent of ideas and eloquent phraseology, which can sometimes startle himself as well as others. As in the case of a Robert Browning, this can produce such opaque references and inconsistencies that not even he—but only God—can later understand his meaning. Kennan, recognizes, for example, that "domestic policies" is a factor in determining foreign policy, but he perceives no obligation of diplomatic officers to keep Congress adequately informed. He has no enthusiasm for the United Nations, but he can still eloquently



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DYNAMICS OF WORLD POLITICS: Studies in the Resolution of Conflict edited by Linda B. Miller, Harvard University. The text presents a collection of essays written from the various perspectives of diplomacy, international law, and international organization, exploring the problems and prospects of accommodation and conflict resolution in contemporary world politics. January 1968, 294 pp., \$3.95

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THE NEGRO PROTEST

ARNOLD M. ROSE, Special Editor

Analysis of historical trends in race relations in the United States, of specific conditions, of factors of change abetting Negro protest, and of strategies of integrationists and civil rights movements (January 1965)

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insist upon the efficacy of "world opinion," its "superior forces," and its ability to provide a "decisive edge of advantage." His "X" article on containment was not nearly so clear as one could have wished and as he now endeavors to make it.

One wishes, also, that Kennan had made the case, both during his career and in his *Memoirs*; he obviously could have made for genuine professionalism in the conduct of our foreign affairs and thus the abatement of what he terms the "vast, turgid, self-centered and highly emotional process of decision making" in the State Department. Somehow, the vital and urgent need of this nation to improve both its decision-making processes and its professional diplomacy got lost in Kennan's preoccupation with "the right policy."

Notwithstanding these limitations, Kennan was an enormously healthy and stimulating influence in our diplomatic establishment, and his *Memoirs* provide a provocative analysis of the intellectual, political, and military thinking that went into the evolution of our attitudes and policies for some twenty-five years.

SMITH SIMPSON

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ROBERT E. OSGOOD and ROBERT W. TUCKER.
Force, Order, and Justice. Pp. viii, 374.
Baltimore: Johns Hopkins Press, 1967.
\$10.00.

In any attempt to emphasize the continuity between the present and previous international systems, there is some danger that the extent of the discontinuity will be minimized. The attempt needs to be made: the significance of the discontinuity can be judged only by reference to the continuity—by the historical method. The authors of this book undertake it with distinction. They set the nuclear weapons into context, on the one hand, by analyzing the great expansion of military power since at least the 1860's but by reminding us, on the other hand, that the continuing technological revolution has not rendered military power obsolete. They show that the state as the only effective wielder of military

power is no more on the way to becoming obsolete than is military power as such. They bring a proper scepticism to bear against the temptation to believe that the state may at least be driven to behave from other and higher considerations than the traditional ones of survival, security, and power. If there is a defect in their work, it is a disposition to underestimate what is nevertheless unique in a situation which retains so many of the basic elements of the historical states' system.

This disposition appears several times and always on the same point. Thus: it would be "silly to assume that any limited use of nuclear weapons must necessarily become a global nuclear war" (p. 190). Or: the uncertainty which underpins the deterrence system is an "inability to predict with any real confidence what the consequences will be of using the nuclear weapons" (p. 314). To this argument—it reappears in other forms on pp. 144 and 358—no disclaimer can be too emphatic. The uncertainty which underpins the deterrent is simply that the possibility of war cannot be excluded; and it is so simply because war between nuclear powers will be suicidal. Anything which persuades cautious men that it is possible to contain nuclear exchanges within tolerable limits is a mistake to say the least.

At other places the authors say this themselves (see pp. 192, 262, 344). Why, then, do they lend their authority for even part of the time to the misguided concept of limited or controlled nuclear warfare? The answer seems to lie partly in their fear that the present nuclear deterrence systems will not last—that something unexpected will undermine it or that continuing reliance on it will create the dangerous illusion that it is dependable when it is not—and partly in their feeling that this system is "oppressive" on account of its dependence on only the probability that catastrophe will be avoided. If this is the explanation, I sense a *non sequitur*, since I share their fear but not their conviction that probability is not enough. Let nuclear states continue their not unimpressive efforts to control force short of war. Let it be drummed into them without cease that they have so far

succeeded in these efforts in easy circumstances and that harder times are ahead when the unexpected happens—as it will. But if you encourage them to think that they will be able to control force once they begin to fight each other, you will bring nearer the one certainty that is available to us—the certainty that catastrophe will follow if states cease to be extremely careful.

F. H. HINSLEY

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DAVID J. FINLAY, OLE R. HOLSTI, and
RICHARD R. FAGEN. *Enemies in Politics*. Pp. viii, 257. Chicago: Rand
McNally, 1967. No price.

This book consists principally of three case studies—probably Stanford dissertations—of “hostile relationships at the international level.”

Ole R. Holsti, in the first case, analyzes John Foster Dulles and “his attitude toward a single ‘enemy,’ the Soviet Union.” The primary data were for the years 1953–1959, “including 122 press conferences, 70 addresses, 67 appearances at Congressional hearings, and 166 other documents.” In addition to this great number of words, Dulles had written a book and many articles before he became Secretary of State. A devoted churchman, Dulles believed in a “natural law not made by man which determines right or wrong.” Communism existed outside this moral, natural law; therefore, wrote Holsti, “It is clear that the Soviet Union represented the antithesis of the values which were at the core of his belief system.” A frequency count of the words Dulles used in his speeches to describe the Soviet Union and its leaders—such as *despotic*, *materialistic*, and *atheistic*—shows that he grew more anti-Soviet as the years went by. He believed that international communism controlled both China and the Soviet Union, and so he foresaw “no early major trouble” between the giants of communism. His concept of the enemy sometimes blinded him to trends and events and caused him to ignore the advice of the experts in the State Department.

David Finlay, in the second case, uses more traditional, chronological methods to describe Kwame Nkrumah and his use to control Ghana of so obscure an enemy as departed British imperialism. Attempts on his life, as well as the fall in the world price of cocoa, were alleged to be due to imperialism, colonialism, or neocolonialism. Nkrumah had besides a whole pantheon of enemies for whom he could blame anything—the Syrians, the Lebanese, the judiciary, even Moral Rearmament and the Universities. The existence of these many enemies was used as his excuse for a series of six repressive measures. His “model was found in Marxism or, as it was later called, Marxism-Nkrumaism.” But while he was on a trip to Peking and Hanoi, an easy, almost bloodless coup by a brigade of the army overthrew his government. The use of enemies, apparently, has limits.

Richard R. Fagen, in the third case, discusses the use of the enemy—the United States—by Fidel Castro to justify whatever he wishes to do. Ten prize poems are translated, all full of hate for the United States; in the ninth one, he asserts that Americans “have a favorite sport, the lynching of a Negro every afternoon in Georgia or in Mississippi.” The editorials in *El Mundo* (The World), a newspaper that reflects the Castro line, are analyzed for a year into eighteen themes, most of which are anti-American, with a few pro-Soviet. If the United States is the number one enemy, lesser devils are former dictators Machado and Batista, Presidents Grau and Prió, sugar interests, and Yankee businessmen.

The best of the three cases seems to the reviewer to be the first one, but the others are also interesting. Using different methods of research, the three authors show something of the use of enemies in international relations.

DAYTON D. MCKEAN

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WILLIAM R. KINTNER. *Peace and the Strategy Conflict*. Pp. xiii, 264. New York: Frederick A. Praeger, 1967. \$6.95.

A superb soldier-scholar, Professor Kintner here writes like an alarmist Air General.

Fearing imminent Soviet strategic nuclear superiority, he addresses only this peril, for (p. 63) "the other [nonstrategic] military and nonmilitary elements essential to a viable U.S. policy can be taken for granted"! His theme is nonetheless timely. Technology changes rapidly in strategic weaponry, which the Soviets emphasize. Their relative power position was bound to improve from the time when they lacked either hardened silos or appropriate submarines for their missiles.

But will the Soviets seek strategic superiority, and can they succeed? Kintner's numerical method is to extrapolate growth of Soviet hardened missiles from data for only the first two years (1964-1965) and thus generate a sixteen-fold increase to 1,075 second-generation Intercontinental Ballistic Missiles (ICBM) by the end of 1969 (pp. 114-115). Such a method led to the mid-1950 "bomber gap" and early-1960 "missile gap" false alarms. As then, will the Soviets now prefer to avoid huge costs for weapon systems that become obsolete quickly and that incite enemy countermeasures. Kintner would not wait to see His priority program for the United States (pp. 216-217) includes a "heavy" anti-Soviet Antiballistic Missile (ABM) system; "several hundred" additional Minutemen, accelerated production of improved missiles, and development of a new large missile; retention of all-available bombers, plus developing an advanced one; speeded civil defense: increased underground testing; and a new medium-range missile.

But United States policy seeks to deter a further strategic arms race, not to precipitate it. Further, Kintner's procurement candidates have been found wanting in Department of Defense cost-effectiveness evaluations, and he provides no analytic refutation beyond appeals to "doctrine." This reviewer also prefers the 1962 McNamara "controlled nuclear response" doctrine to the little-more-than "assured destruction" doctrine that predominates today. Yet much can be done to implement "controlled response," not as the pure "counterforce" that Kintner prefers (pp. 46-47), but in its alternative interpretation as "city-sparing for intra-war deterrence." Perhaps only appropriate policies, plans,

and speeches are needed. Where the United States must respond to overwhelming assault abroad, our proper commitment to a strike-second policy does not imply a damaged Strategic Air Command (SAC) and Polaris force. Especially in such situations, "strategic superiority" should come primarily from better planning and technology. Nothing less fits our overseas commitments. Little more may be needed, though Kintner argues this point. And he does an interesting cause a disservice by his excesses.

MALCOLM W. HOAG*

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JEREMY J. STONE. *Strategic Persuasion: Arms Limitations through Dialogue*. Pp. xiii, 176. New York: Columbia University Press, 1967. \$6.95.

Strategic Persuasion is a book of advocacy. Its author, Jeremy J. Stone, has long been concerned with "Containing the Arms Race"—a title he chose for a preceding book. In this present volume, Stone persuasively argues that the most effective way of eventually bringing about mutual arms reductions between the Soviet Union and the United States will be to improve the process of communication between the two super powers.

Strategic Persuasion would be useful in any of its attempts to improve human communications. For example, "in attempting to persuade, we must be aware that people persuade themselves rather more than we persuade them—and they do it on their own time" (p. 6).

With respect to the United States-Soviet dialogue, Stone argues that "concepts in the United States, and ideology in the Soviet Union, seem to play an analogous role in the development of strategic thought" (p. 35). He concedes that some concepts, such as "spasm war," have been helpful to the arms controllers. He suggests that other concepts tend to result in

* Any views expressed in this paper are those of the author. They should not be interpreted as reflecting the views of The RAND Corporation or the official opinion or policy of any of its governmental or private research sponsors

the "total indoctrination of societies as a whole with slogans" (p. 41). Then he asserts, somewhat mystifyingly, that if we engage in this process "we increase the gap between those who see the truth intuitively and those others who can, with preset formulas and preset allies inside the process, oppose it" (p. 41).

Stone generally endorsed the strategic persuasion undertaken at the Pugwash Conferences. These presumably unofficial conferences brought together scientists from the United States and the Soviet Union and several other countries. Whether or not Stone considers Soviet scientists to be unofficial "Pugwash" representatives, he does ask "what group of this type could be really informal for them?" (p. 80).

This book assumes an inherent symmetry between American and Soviet societies: "The University of Moscow student of arms control studying at Harvard, or the University of Chicago student studying in Moscow provides a continuing source of suggestions and inspiration for solutions to arms control problems" (p. 82). He does not compare the voluminous arms control literature published in the United States with the negligible Soviet writing. Nor does he consider what effect, if any, the training of Soviet citizens in dialectical analysis has on their attitudes toward co-operation, yet a fundamental of the dialectic is that progress results from conflict.

Stone contends that "Eisenhower was sufficiently above politics to be unwilling to exploit" the potential of technological achievements (p. 127). Yet, if anything, Eisenhower's low-key manner of projecting United States military strength should typify the kind of strategic dialogue which Stone advocates. The author notes Khrushchev's flamboyant technological claims and contends that he "may even have been less frightening than would have been a Soviet leader who said nothing" (p. 154). Perhaps Stone would agree that present Soviet leadership is doing a lot more militarily and saying much less about it.

In conclusion, Stone urges acceptance of the possibilities "inherent in the notion of 'cooperation between adversaries'" (p.

175). He asserts, quite correctly, that "our own and our adversaries' states of mind are every bit as interrelated as are the weapons themselves" (p. 176).

Stone has made a contribution in improving the art of persuasion—but little toward achieving arms limitations "through dialogue" with the Soviet Union. In fact, the Soviet strategic build-up of the past two years torpedoes Stone's assertion that "the pressures that have produced a decade of rapid arms production from 1955 to 1965 are weakening . . . and the prospects for our being able to get through to one another with words are improved" (p. xii). *Strategic Persuasion* should be kept on hand for use if and when gentler winds blow from the East.

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JOEL LARUS. *Nuclear Weapons Safety and the Common Defense*. Pp. x, 171. Columbus: Ohio University Press, 1967. \$6.50.

The problem examined in this volume, known to the military as "Broken Arrow incidents," is that of nuclear weapons accidents, involving actual or potential hazards to life and property. Most publicized of all the known accidents to date was the collision (1966) between a B-52 jet bomber carrying four hydrogen bombs and a KC-135 refueling tanker over Palomares, Spain.

Professor Larus explains in some detail the physical and administrative safeguards against accidents used by the United States. The number of safety devices that can be wisely employed is a controversial subject: the "safety nominalists," military men in particular, seek to avoid so many safeguards that weapon performance will be impaired, whereas the "maximalists" incline to give priority to safety over performance. The period of the greatest fear of accidents was from 1957 into the early 1960's. Hardened and mobile weapons systems have so diminished the danger of accidents that there is now "a very slim possibility" of a

mishap that would trigger a Russo-American war.

The author finds that the accident-prevention records of the present nuclear powers have been creditable; safeguards, at least in the United States, Russia, Britain, and France, are reasonably reliable. He notes that no atomic or hydrogen weapon has "detonated accidentally or inadvertently produced a chain reaction." His main concern is that the proliferation of nuclear weapons, which he regards as inevitable, will bring into the picture states without sophisticated safety systems.

With these fears for the future in mind, Professor Larus advocates in his final chapter an international conference of states with a nuclear capability for the purpose of exchanging "detailed information about the physical and administrative safeguards that can limit nuclear weapons accidents." It might be wiser to have the conference convened by the United Nations, which is experienced in conference preparations and procedures and is equipped to express world opinion, rather than by Russia and the United States, as he suggests. Without intending cynicism, we believe that the enemies of such a conference will be the indifference and lethargy of peoples and governments preoccupied with a multitude of interests far less vital to their future than the prevention of nuclear accidents.

Professor Larus has presented his subject thoughtfully and clearly. His book deserves a good audience.

NORMAN HILL

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RICHARD W. COTTAM. *Competitive Interference and Twentieth Century Diplomacy*. Pp. 243. Pittsburgh: University of Pittsburgh Press, 1967. \$5.95.

In this book, the author argues that American diplomacy is characterized by an *ad hoc* style, that policy consists generally of a series of individual responses to local challenges. He further maintains that American decision-makers typically choose policies involving gross interference in the affairs of other states when the exigencies of crises make this necessary; but once the

crises have passed, they will withdraw from all but the mildest forms of interference. A policy of continuing interference, which Professor Cottam asserts is what twentieth-century conditions require, is not adopted, he feels, because of ill-founded ethical inhibitions or habituation with traditional diplomatic procedures.

According to Professor Cottam, the first step in evolving more appropriate and effective policies would be the elaboration of operational situational analyses, which he maintains have not been made up to this point. The concept of leverage—"those means not involving direct action by which one government can exercise some influence over the policies of another government at any particular time" (p. 82)—would be central to those analyses. Tactics to implement the strategies based on these analyses would be tested by clever use of diplomatic probes.

To move in the direction he suggests, Professor Cottam thinks that the Central Intelligence Agency ought to be fully integrated into the process of forming and executing policy and that the country-team concept should be strengthened by increasing the authority and responsibility of the chief and deputy chief of mission. He also sees academic and nonacademic area specialists playing a major role by providing the bases "for testing the situational assumptions of the official policy-makers" (p. 234).

Whatever the reader's taste, he will find things to criticize in this book. It is pretentious. Definitions are poorly drafted, and the logic is often faulty. Assertions are frequently made about empirical matters with slight if any supporting evidence. The heralded solutions turn out to be rather commonplace.

Professor Cottam served as an American foreign service officer in Iran, and he is an established academic authority on that country. The vignettes on American policy concerning that country, interspersed throughout the book, are among its better features. Given his wide experience, though, Professor Cottam should know that the predictive capacity of social science is far too weak and decision-makers and citi-

zens of other states are far too untractable to sustain his prescriptions.

HAROLD KARAN JACOBSON

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BERNARD A. RAMUNDO. *Peaceful Co-existence: International Law in the Building of Communism*. Pp. x, 262. Baltimore: Johns Hopkins Press, in co-operation with the Institute for Sino-Soviet Studies, George Washington University, 1967. \$6.95.

In the present uneasy *détente* between the East and the West, it is extremely important to understand, if possible, the present Soviet attitude toward international law. For today the Russians are making a strong effort to convince us that whatever may have been their views prior to Stalin's death, they now espouse the cause of a universal law of nations. Both their legal scholars and their public representatives—and, unlike the situation in the West, these two groups speak with the same voice—claim to be champions of the “new” international law, whose basic concept is the doctrine of “peaceful coexistence.” “The purpose of present-day international law,” Koshevnikov writes, “is to promote peaceful coexistence and cooperation between all States regardless of their social system.”

This “new” Soviet view of international law, with all its vagaries and inconsistencies, is admirably analyzed in this monograph by a United States Army Lieutenant Colonel serving with the Department of Defense and teaching at George Washington University. Based on a careful study of original Russian sources, of which numerous citations and footnotes are provided, this is the latest analysis of the law of nations as represented in Soviet legal literature and foreign policy.

The writer demonstrates that the famous Soviet concept of peaceful coexistence is too illusive and self-serving to afford the basis for peaceful relations between the nations. Advanced by Soviet scholars on every possible occasion, particularly at scientific meetings and specialized conferences of the United Nations, the concept, it is true, favors universal rules of law in prin-

ciple and calls for their codification. But the transparency of this attitude is evident. For while professing to outlaw the use of force and aggression, the Soviets carefully exempt wars of liberation and action in self-defense, neither of which is defined. Each state, under a strict application of the concept of state sovereignty, is to remain judge of the meaning of these terms, without any provision for international adjudication or any other form of objective interpretation. Furthermore, the Soviet scholars and diplomats, invoking the same doctrine of exclusive sovereignty, oppose the present World Court, favor a very restrictive role for the United Nations, and strongly resist any suggestion of world government or world rule of law. But all of this is not surprising in a regime for whom law is definitely a means, not an end, since all rules are mainly judged by their capacity to serve the interests of communism or Soviet foreign policy.

Those interested in international law and world politics may gain valuable information from this scholarly study, and while it will not enhance our hopes for permanent peace, we may derive some encouragement from this demonstration that in espousing international law in principle, Moscow has come a long way from the “mini-law” concepts of Vyshinsky or Stalin.

JOHN B. WHITTON

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BYRON DEXTER. *The Years of Opportunity: The League of Nations, 1920–1926*. Pp. xxiii, 264. New York: Viking Press, 1967. \$8.50.

Pity the poor League of Nations: a deteriorating political order and war obscured its promising beginnings and its subsequent moments of glory. Like shards of a past civilization in the foundations of a modern city, the League's vitality now lies beneath the construction of the United Nations. Some students even seem to think of the League as subject matter for antiquarians.

In this book, Byron Dexter laudably tries to recreate the excitement and freshness of the early years of the League. In polished

and lucid prose, he portrays his view of the organization from its emergence through the contrivance of the Locarno treaties, which he believes was a destructive turning point.

The book mainly concerns the first six years. It pays more attention to the maneuvers of the European great powers than to the actual functioning of the League. Dexter sees the League as an instrument of the foreign offices and as a mirror of their policies, rather than as an independent actor in an international system or as a framework for a distinctive political process. He has nothing to say about Secretary-General Eric Drummond's political activities. The creation of the Permanent Court of International Justice, whose cases get considerable attention, denotes "the League's finest achievement."

Dexter's political thesis, like the League itself, is controversial. The "peace camp" enunciates a dangerous principle. Peace can only be maintained by power. So long as the great powers co-operated in Europe, the League served well as their instrument to deal with their main problem. This was the maintenance of stability on the continent. But the uneasy coalition of French and British governments fell finally in the negotiation and application of the Locarno treaties, which represented both British abandonment of the power principles implicit in the Draft Treaty of Mutual Guarantee and an attempt to return to the classical balance of power. Although the Locarno "double talk" provided the formula for bringing Germany into the League, it also undermined the "fair and moderate" Versailles settlement. Then, Dexter writes, "the League of Nations encouraged the aggressions it was organized to suppress." He contends that the lost opportunities under the League to build an order based on power teach the lesson that if peace becomes the overriding object of an international organization, as he says it has in the United Nations, its influence will be used to advance the aims of the most warlike state. He identifies that warlike power in our times as the Soviet Union.

As Dexter intended, this is a book for "the general reader." That all-suffering

creature, who is presumably not expected to recognize that a historian is presenting certain sharply revisionist views, would hardly know whether the most important sources are, in fact, used. In this book, almost no use is made of League publications, and none is made of the archives open to scholars. Most citations refer to secondary works. By felicitous phrases and evocative comment, Dexter does recall some of the stimulation of the early years of the League. Other students ought to be encouraged to delve still more deeply into the causes, the processes, and the settings of that excitement.

LEON GORDENKER

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EUROPEAN GOVERNMENT AND HISTORY

KARL JASPERS. *The Future of Germany*.
Translated and edited by E. B. Ashton
Pp xviii, 173. Chicago: University of
Chicago Press, 1967. \$4.95.

The question of the nature and quality of post-World War II German democracy has preoccupied many political observers within and outside the Federal Republic of Germany. The findings varied from optimistic evaluations to the most condemning judgments, such as the claim that militarism, *revanchism*, and neonaziism have again made their appearance on the German scene. These latter assertions are not merely confined to Soviet propaganda. They also can be heard among those people in the Western World who refuse to accept the notion that the Germans can learn from their past and are capable of creating and maintaining a democratic political system.

Karl Jaspers' "contribution" to this examination process of the contemporary German political situation occupies a rather unique position. When Jaspers speaks, people in many quarters are listening because of his reputation as one of Germany's great philosophers and because of his un-

blemished anti-Nazi record. For example, Hannah Arendt, without questioning the many erroneous "factual statements," refers in her introduction to the English edition of this angry and highly opinionated book as "the politically most important book to appear in Germany after the Second World War" (p. v).

This broadside against the author's misrepresentation of the present German political scene has nothing to do with his anti-Nazi record and his genuine concern for political freedom. However, this reviewer seriously questions Jaspers' ability to carry out an objective political analysis and a meaningful evaluation. For example, Jaspers bases a great deal of his pessimistic predictions concerning the future of Germany upon the assumed "oligarchical dictatorship" of the political parties without attempting to justify his views by facts. What is the basis for his judgment that the German people are frighteningly uninformed and really do not know what they are choosing? Where are the facts for his conclusion that the political parties do not publicly account for the sources of their funds, in spite of the fact that the law requires them to do so?

According to Jaspers, the political parties represent the only political power in the Federal Republic, and, therefore, the separation of power becomes meaningless. No distinction is made between formal and informal channels of political power and processes by this philosopher turned analyst.

In spite of the detrimental results of the institution of a popularly elected president in the Weimar Republic upon the development of democratic responsibilities, Jaspers advocates a strong president as a check to the power of the political parties. The "grass-roots political formations, such as 'councils' of modern revolutions" (pp. 8-9), are envisaged by him as other possible methods of curtailing this power.

Jaspers confuses "all party government" with a "grand coalition" comprised of the two major parties. For him a government comprised of all parties constitutes a grand coalition (pp. 13, 32). In spite of his prediction that "our seeming democracy would vanish altogether in the authoritarian rule of a party oligarchy" (p. 13), the

Grand Coalition has been in existence for over one year without the dismal effects forecast by Jaspers.

The "road to dictatorship" in the Federal Republic is, for the author, an established fact (p. 30), and even the ban of the German Communist party is used as a "symptom of progress toward authoritarianism" (p. 28).

An entire section of the book deals with the alleged "dangers" arriving from the constitutional emergency provisions proposed by the present coalition government. Jaspers repeats many of the wild accusations of the extraparlimentary and left-wing-oriented opposition, which in most instances are based on either distorted or entirely incorrect facts. The author agrees with the oppositional elements that there is no "Red menace" against which the emergency preparations are supposed to be directed (p. 36). Quite contradictory to this view, Jaspers, in discussing the German security problems, admits that "in fact the threat to the free world has not changed at all" (p. 151), and he gives credit to the rise of "Chinese pressure" for "a temporary halt to Russia's westward expansion" (p. 151). Jaspers' assertions that the emergency laws will make it possible to abolish the Constitution, to set up a dictatorship, and to create the gravest threat to peace (p. 36) are just as much the products of his imagination as the claim that the government can employ the armed forces against the German population, notwithstanding his belief that "the emergency laws would become tools of a military dictatorship" (p. 47).

Jaspers' concern about political democracy in the Federal Republic is certainly sincere. However, his sincerity does little to overcome his obvious lack of political and analytical capabilities. The result of his endeavor is a highly overrated, thoroughly confused, and self-contradictory book. It is a pity for a personality of the caliber of the author to deal with a subject matter of which he has little understanding.

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HAMILTON T. BURDEN. *The Nuremberg Party Rallies, 1923-39*. Pp. xv, 206. New York: Frederick A. Praeger, 1967. \$5.95.

Almost like a conditioned reflex, the names of some cities around the world evoke historical memories in the modern consciousness. Who today can think about Wittenberg in East Germany, Valley Forge in Pennsylvania, the city of Verdun on the Meuse river in France, or Dachau outside of Munich without some historical reference or image springing into the mind? For many people who lived through the Nazi period, the Bavarian city of Nuremberg arouses a mixture of associations. The home of Albrecht Dürer, the *mise en scène* for one of Richard Wagner's operas, the name given to Hitler's notorious anti-Semitic laws in 1935, and the city where judgment was rendered against Nazi war criminals, Nuremberg has been acclaimed the most German of all German cities.

Hamilton Burden's book describes one further aspect of this medieval city's current reputation: the locale for the mammoth rallies of the Nazi party from 1923 to 1939. Hitler obviously selected Nuremberg for this role, because he recognized the national and cultural significance which it would lend to his struggling organization. Later on in the late 1930's, the situation was reversed when it was the Nazi party itself which conferred fame, honor, and commercial privileges on the city for providing the home for nine Party Congresses before the outbreak of war in 1939.

Using newspaper reports and eye-witness accounts, the author of this book organizes his story in chronological order, one chapter devoted to each of the rallies. The result is repetitive and annoyingly monotonous, but the general effect of his presentation is overwhelming. Year after year, the Nazis were able to command the appearance of hundreds of thousands of devoted, disciplined Party members at the Zeppelinfeld and Luitpold Arena in Nuremberg's outskirts. Year after year, Hitler and his political lieutenants expounded the same Nazi slogans and excoriated the same enemies of the new Germany. In the end, the book becomes a case study of the Nazi's methods of declaring ideology, mo-

bilizing mass hatreds, and instituting ceremonial rituals of public allegiance.

In several respects, Burden's study is somewhat thin in documentation and analysis. The sources he uses are limited, and the questions he asks never seem to approach the deeper levels of philosophical and psychological inquiry. The photographs, however, are striking and revealing. One picture shows 50,000 Wehrmacht troops and 100,000 spectators standing at attention before Adolf Hitler on Army Day, 1938. It is doubtful if any leader in history before that day could have summoned up such a display of military power and fanatical obedience.

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J. C. G. RÖHL. *Germany without Bismarck: The Crisis of Government in the Second Reich, 1890-1900*. Pp. 304. Berkeley and Los Angeles: University of California Press, 1967. \$9.00.

In this thoroughly researched, heavily documented study, Röhl analyzes the causes, courses, and outcome of the seven-year crisis in the German regime which followed Bismarck's fall. In 1890, the German government confronted two problems, that of the distribution of power within the executive and that of the relationship between the executive and the legislature.

The former problem resulted from Bismarck's monopoly of power for a generation and Caprivi's effort to share authority with the ministers and state secretaries. Germany, Röhl writes, was governed by an oligarchy of about twenty men. This group could make decisions either collectively or by deferring to the judgment of one man. During the Caprivi era and after, quarrels and intrigues developed within the ruling oligarchy, and William II resolved that "it was his duty to restore unity to the Government." Thus, between 1890 and 1897, Germany experienced "a cyclical development from autocratic rule through collective leadership back to autocratic rule." Röhl, therefore, confirms the view of Erich Eyck, expressed in his *Das Persönliche*

Regiment Wilhelms II (1948), that the Kaiser did indeed rule.

While this first problem was solved, the personal rule of the Emperor served only to aggravate the second problem. In dealing with the legislature and public opinion, William employed essentially Bismarckian methods. The real alternative, Röhl contends, was not parliamentary government, but an imperial coup d'état. "Had the responsible Government made a determined effort to wrest power from the monarch with the assistance of the moderate and left-wing parties in the Reichstag," Röhl writes, "the advocates of a *coup d'état* policy would almost certainly have succeeded in persuading Wilhelm to go over the brink." Most responsible statesmen believed that this would lead to foreign war or civil war. "Even the strongest opponents of Wilhelm's personal rule regarded giving way as the lesser evil."

In an effort to distract attention from the imperial dictatorship and its reactionary domestic policy, the regime embarked upon a spectacular naval, colonial, and foreign policy. Thus, as Röhl remarks, "Germany's new leaders exported the internal crisis and so took the road to diplomatic isolation, war and the collapse of the monarchy."

Germany without Bismarck is a major contribution to the study of the Wilhelmian Reich, presenting as it does a detailed analysis of a decisive, though little understood, period in German history.

BIRDSALL SCRYMSER VIAULT

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HANS KOHN. *Prelude to Nation-States: The French and German Experience, 1789-1815*. Pp. x, 416. Princeton, N.J.: D. Van Nostrand, 1967. No price.

Professor Kohn reminds us in the dedication of this work that it comes forty-five years after the publication of his first book at Vienna, on the same subject. If the specific theme is familiar to American readers, it is because Hans Kohn has often dealt with it since his arrival in this country in 1933. While not new, the theme is

important and is refreshed here by copious notes from the author's lifelong reading of difficult sources in French and German.

The nation-state, the model of organization which peoples throughout the world are or have been attempting to realize, is actually, in the author's view, a blend of two models, both of which were first projected in Europe between 1789 and 1815. In one, the nation is a community of citizens, in the other, a community of physical or ethnical kinship. In one, the nation exists by sharing in civil rights in present time, in the other, by sharing in a common culture inherited from distant forebears. In one, the individual is primary and the group is thought of as a voluntary association; in the other, the group is seen as more real and the individual as derived from it. The first model is universal in holding its principles to be applicable to mankind. The second stresses the distinctive and irreducible character of each nation. The first model is predominantly political and comes from the Enlightenment. The second is more non-political and is associated with romanticism. The first model, mainly French, was proclaimed during the French Revolution. The second, mainly German, arose in reaction against the Revolution and the French ascendancy of the following years.

The book, while elucidating these two models, is far more concrete in its approach. The first half is about France, while the second deals with Germany and a familiar list of individual Germans. The whole is alive with insight and is rich with curious evidence, but it is to be wished that the author, in the second half, had drawn more explicit contrast to the first. He repeatedly emphasizes how little national or anti-French feeling there was in Germany, even in the last years of the Napoleonic Empire. One concludes that, for France, the nation-state was forged by widespread participation in the experience of war and revolution, but that for the Germans it was an idea of writers and intellectuals who had to propose it as their own new discovery to an apathetic population. There is very little social analysis or attempt to determine how various kinds

and classes of people reacted to the appeals for a heightened national consciousness. It would be well if quantitative procedures could be devised for this well-known branch of the history of ideas. Nor has the author done more than to suggest how his models apply to nation-building in the twentieth century. It is believable that what happened in France and Germany was in this sense a "prelude." In Asia and Africa today, as elsewhere, there is a stress between the civic and the ethnic theories of the nation, which may be better understood from a reading of this book.

R. R. Palmer

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The Impact of the Russian Revolution, 1917-1967. Pp. 357. New York: Oxford University Press, under the auspices of the Royal Institute of International Affairs, 1967. \$7.50.

This compendium was issued under the auspices of the Royal Institute of International Affairs. The introductory essay, written by Arnold Toynbee, is entitled "Looking Back Fifty Years." It is thoroughly undistinguished, largely due to the author's passionate outbursts against United States policies relating to Communist expansionism. The United States is so far-gone that it "cannot afford to let even a liberal revolution run its course without American intervention." John Foster Dulles is the devil of this theory. And we learn that today, "each of the communist countries is just as narrowly nationalistic-minded as each of the non-communist countries." Quite apart from the difference between genuine Polish nationalism—to take an example—and the limited autonomy of a Gomulka, how can one talk of Soviet "nationalism," or, for that matter, Czechoslovak or Yugoslav "nationalism"?

In his discussion of the Communist impact of the labor movement, Neil McInnes states that "after splitting the labour movement in most countries . . . Soviet Russia and the national Communist parties today have virtually ceased to be important ex-

ternal influences on it." The Communists, he believes, sabotaged the left-wing laborites, while driving the right wing more quickly towards the goal of absorption into bourgeois society.

Hugh Seton-Watson's essay on nationalism and imperialism notes that the only major remnant of the imperial system, the Soviet Union, has met with greater resistance from nationalists in the undeveloped countries, partly because the simplistic Communist view of Western imperialism cannot, in fact, explain most of the problems with which these countries are confronted.

In his chapter entitled "Power Without Influence," Richard Lowenthal identifies the major failure of the Soviet system: "It has subdued many neighbours and imposed its system on them. . . . But it lacks common honesty; so of independent imitation, the only genuine compliment, it has received almost none."

Peter Wiles analyzes the Soviet impact on economic policy in non-Communist countries. He says that if local Communists remain wedded to Soviet policy, their influence on non-Communist nationalists will be limited; even if they "adjust their outlook to the national needs and the nationalist emotions of the countries concerned, their influence may improve the systematic quality but will hardly change the direction of the nationalist regimes." Interestingly, Wiles identifies the admiration which both Hitler and Mussolini had for repressive aspects of the Soviet Union which seemed to them to be so much more efficient than their own dictatorial ways.

ANTHONY T BOUSCAREN

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ROBERT CONQUEST (Ed.). *Soviet Nationalities: Policy in Practice.* Pp. 160. New York: Frederick A. Praeger, 1967. \$5.25

One of the more interesting developments of current Soviet studies in English-speaking countries is the renewed interest in the nationalities problem of the Soviet Union. During the first decades of the

Soviet system, American and British observers devoted much attention to this problem, though they often tended to accept at face value official claims that Soviet nationalities policy provided the ideal solution. During the later 1940's and early 1950's, suspicion replaced credulity, but even specialists often tended to overemphasize the "monolithism" of the Soviet system, while slogans like "it takes a Russian to beat a Russian" impressed policy-makers. For many in both groups, concern for the non-Russian nations seemed dubious, if not downright objectionable, because it might—judging from *émigré* reaction—alienate Russians.

The recent revival of interest springs, one may judge, more from a recognition of the universal pre-eminence of nationalism as a political force than from a close examination of Soviet conditions. It is all the more fortunate, therefore, that over the years a small number of specialists has devoted special attention to the Soviet nationalities problem. Robert Conquest made his reputation as a student of Soviet nationalities more than a decade ago with the publication of *The Soviet Deportation of Nationalities*. In the book under review, he and his four collaborators consider the problem in a broader, predominantly historical framework. Though the formative years of Soviet nationalities policy have already been examined in some detail by scholars like Richard Pipes, the book presents much unfamiliar material. Communist motives are sharply illuminated by such statements as Lenin's. "To accuse the champions of the freedom of self-determination, i.e., the freedom of secession, of encouraging separatism, is just as stupid and hypocritical as to accuse champions of the freedom of divorce of encouraging the destruction of family ties."

In spite of the book's title, the treatment of later decades leaves too many questions unanswered to satisfy those who have examined Soviet nationalities practice closely. For example, despite repeated reference to the alleged nationalist "League for the Liberation of the Ukraine," there is no attempt to determine—by reference to good secondary sources—whether it was a fig-

ment of Soviet propaganda. More generally, the authors' near failure to utilize the considerable, if uneven, body of Western scholarship on Soviet nationalities is surprising; when they do refer to such works, their choice is often poor. Even more surprising—in view of the authors' understandable concern with the erstwhile Moslem nationalities—is the authors' failure to utilize abundant Soviet statistical material now available. In one place—the treatment of the Caucasian nationalities on p. 106—the authors used only the preliminary results of the 1959 Census, though much fuller data have been available ever since 1963; later, they do refer to some of the latter material, but without analyzing it in depth. These criticisms, however, merely suggest that this little volume is not a definitive study; that was hardly possible at this stage. As an introduction and as a clarification, it is most valuable.

JOHN A. ARMSTRONG

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ERNST BREISACH. *Caterina Sforza: A Renaissance Virago*. Pp. ix, 375. Chicago: University of Chicago Press, 1967. \$7.95.

This biography of Caterina Sforza is an attractive book on several counts. It is handsomely designed and illustrated and written with verve. From birth to death (1462–1509), Caterina's life is described in superabundant detail. And since her career was colorful, dramatic, violent, and lubricious, this book will certainly appeal to that popular audience which, in generations past, read and enjoyed Gregorovius' biography of Lucrezia Borgia. Professor Breisach's researches have substantially added to the stock of information about Caterina, which Pasolini assembled in his massive biography published in 1893. But in its significant dimensions, the portrait of this lady remains essentially unchanged. To quote Breisach's phrase, Caterina was a "Renaissance virago": a shrewd, tough, and licentious harridan who ruled her petty state—comprising the towns of Forlì and Imola—for twelve years and who survived longer than many of the ambitious men

who sought to gain and hold power in the ruthless world of Italian *quattrocento* politics.

In his preface, Breisach states that he is writing for two audiences: Renaissance specialists and educated laymen. The latter are much better served than the former. Despite its imposing panoply of scholarly footnotes, which testifies to the author's assiduous research in both published and archival sources, the book contributes little to our comprehension of the age. This is old-fashioned narrative history, nineteenth-century vintage, with very little analysis or sense of problem. The author scarcely makes any effort to distinguish between the significant fact and the petty and inconsequential detail. The book often reads like the factual and gossipy diplomatic dispatches, which constitute one of its primary sources of information. Breisach does sketch the historical background to Caterina's career, but his summaries of Renaissance politics are superficial and filled with clichés. The problems of signorial government and of fifteenth-century Italian diplomacy, which have recently attracted the attention of Renaissance scholars—for example, Philip Jones, Bueno de Mesquita, Catalano, and Pontieri—are not clearly formulated and developed, although Caterina's career might have served as a case study for these and other significant themes of the Italian *quattrocento*.

GENE A. BRUCKER

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MARIO EINAUDI *The Early Rousseau*
Pp x, 294. Ithaca, N.Y.: Cornell University Press, 1967. \$7 95.

Peter Gay, criticizing the "vulgar" limits of Voltaire's hostility to Rousseau, has observed, "Empiricism had its dangers as well as its advantages." But antiempiricism also has its dangers, and Rousseau has to bear some responsibility for exposing the world to the risks of the moral rather than the empirical approach to political wisdom. Perhaps only the vulgar demand a concrete basis for political speculation. Yet not everyone can easily respond to the sen-

timentality that so often flaws the speculative achievements of Rousseau. Professor Mario Einaudi's careful account of the years 1737–1756 in the formation of Rousseau's thought is not "vulgar," but it is the work of a scholar captivated by the charm and passion of Rousseau. He insists, moreover, that Rousseau's essential achievement has been the concreteness of his political observation and theoretical system.

This study provides an excellent introduction to the latest European literature on Rousseau. The first chapter, in particular, provocatively examines the recent Rousseau scholarship of men such as Jean Starobinski, Bernard Gagnebin, Jacques Proust, and Lionel Gossman. Their writings are successfully used to recapture the stresses inherent in Rousseau's thought. This tension reminds us that Rousseau was truly Nietzsche's great predecessor among the European philosophers who must be termed "wisely mad."

Professor Einaudi has many interesting things to say about Rousseau's *Le Verger de Madame de Warens* (1737), the *Discours sur les sciences et les arts* of 1749–1750, the *Responses* to his critics of 1751–1752, and the *Discours sur l'origine et les fondements de l'inégalité parmi les hommes* (1754–1755), and he makes fresh use of the *Discours sur l'Economie politique* of 1754–1755. But in the end the reader is left frustrated by this lucid and sympathetic study. What does it mean to subscribe uncritically to Rousseau's view that nature is all goodness and that man is the author of all degeneration? Where do such judgments fit into the structure of contemporary political thought? The historian considers Rousseau a hero, but does Jean Jacques Rousseau really have anything to say to contemporary political science? Responding to such nagging doubts Einaudi's learned and affectionate study invites the reader to love Rousseau and the virtues he celebrated.

Yet D'Alembert's criticism of the themes of *Emile* and *La Nouvelle Héloïse* remains a devastating critique. "You want . . .," D'Alembert wrote of Rousseau, "to educate a child who must live among monsters, and you want to make of him a giant.

This is not feasible; the giant will shock the monsters, who will all rally against him and chase him away under a hail of stones. Make then of your child a monster like the others, but perhaps as little a monster as possible, enough of a monster not to be disliked by himself." It is the merit of Professor Einaudi's graceful book to remind us of this criticism by D'Alembert. He does not wholly convince one, however, that Rousseau's own realism was equal to this sober proposal. He does suggest that Rousseau's child was to become a man in revolt against this disorder and corruption of his time and that through revolution all men could be reborn to their natural virtues. This language, linking the Enlightenment and the final decades of the twentieth century, indeed, makes Rousseau our contemporary.

EDWARD T. GARGAN

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ASIA AND AFRICA

JOSEPH BUTTINGER. *Viet Nam: A Dragon Embattled*, Vol. I: *From Colonialism to the Vietminh*; Vol. II: *Vietnam at War*. Pp. x, 1,346. New York: Frederick A. Praeger, 1967. \$18.50

Mr. Buttinger is not a professional or academic historian, yet deep involvement in Vietnamese affairs and in American-Vietnamese relations has propelled him to produce this work the results of which cannot be ignored. These large, amply documented, and most handsomely produced two volumes are better history than Mr. Buttinger's *Smaller Dragon*, which more briefly traced Vietnam's history until the advent of French colonial rule. His total opus, though impressive, cannot claim to be more than a synthesis of Western writings on Vietnamese history. But since decades may pass before Chinese and Vietnamese language sources, primary as well as secondary, as well as French archival materials, get adequately mined, we should be more than grateful for Mr. Buttinger's

painstaking work. And let me add that reading him is for the greater part enjoyable as well as instructive. Unafflicted by the pitfalls of academic prose, he has written a well-paced narrative, combined with considerable analytic insights, though here and there marred by a rather tiring penchant for rhetorical questions.

The author was one of the co-founders of the American Friends of Vietnam, a fairly high-powered group—lobby might be more appropriate—of Americans that must bear major responsibility for the disastrous "Diem Experiment." I am not stating this fact in order to tarnish Mr. Buttinger's reputation or credentials, for, as his second volume shows, he is honest enough in dissecting and analyzing the untold follies which his group, together with so many Americans inside and outside the federal government, committed in those years of false euphoria. Though he has broken with the past—there are some *mea culpa's* in the voluminous footnotes of Vol. I—others have not; they still are in the vanguard along the slippery road to further escalation. But Buttinger's early association with that group—which of course included high-minded and highly motivated members—indicates that his is an essentially emotional involvement which has pushed him into the intricacies and complexities of modern Vietnamese history. There is something of the saddened crusader in him, perhaps born of his former espousal of another, temporarily lost, cause, that of Austrian social democracy. Again, I am not necessarily decrying such motivation, but it does impose serious limitations upon the historian's craft. Take Mr. Buttinger's *P'accuse* of French colonialism, a flaming indictment that fills most of his first volume. It is the most complete treatment we yet have of the subject in English—and it is actually more detailed, and more devastating, than what Paul Isoart or Jean Chesneaux have written—and the massive evidence Buttinger presents looks pretty convincing and convicting. But his underlying, and at times explicit, assumption that Vietnam could have developed into a potentially democratic, bourgeois nation had only France had the decency to work to-

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wards, instead of perennially frustrating, such a goal is, to put it mildly, naive in the extreme.

A similar observation might be made à propos of the author's insistence that a program of social reform might in and of itself have sufficed to render the "Diem Experiment" successful in its contest with the Communists for the "minds and hearts" of the peasantry of South Vietnam. In all fairness, I should say that Mr. Buttinger, though a convinced anti-Communist, has given Ho Chi Minh and his colleagues ample recognition for their outstanding organizational skills. He does not succumb to the popular fallacy that communism has no rightful place of existence on Vietnamese soil, whether north or south of the seventeenth parallel. Indeed, he is brave enough to say point blank that to a decisive degree it was Diem's maladministration and not the hideous plotting of Hanoi that created the very conditions which rendered South Vietnam ripe, if not overripe, for renewed "insurgency." The sad truth of the matter is that the Communists are, and for over thirty-five years have been, the only truly modern people on the Vietnamese political scene. Their "modernity" lies not only in their organizational skills, in their uncanny ability to exploit social and economic grievances, but in their dedication, ideological commitment—and it is important, much American sophistry to the contrary notwithstanding!—in their incorruptibility and paradoxically, perhaps, even in their material poverty. (Being corrupted by worldly goods, is, after all, quite traditional!) In addition, of course, the Communists did liberate Vietnam from French rule and may thus presumably even be good—not feigned—patriots, in their own eyes and those of a good many of their compatriots. Against such an array of advantages, does Mr. Buttinger really think that a relative nonentity, be he Diem, Khanh, Thieu, or whoever else, might have a chance, on the condition that he lend a truly receptive and reform-minded ear to an "honest-to-God Ugly American"? Once one asks the question in such a brutal way, much of the second volume, which details South Vietnam's katabasis since 1954, ap-

pears a bit pitiful and already ephemeral.

These reservations made, I gladly salute Mr. Buttinger for having written a serious and excellently researched magnum opus. It is one of the very few tangible "fringe benefits" we have so far derived from these terrible years.

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MICHAEL LEIFER. *Cambodia. The Search for Security*. Pp. ix, 209 New York: Frederick A. Praeger, 1967. \$6.00.

Cambodians are convinced that they are in a precarious situation. The Thai and the Vietnamese are the traditional enemies of their country. The Empire of Kambuja, the antecedent of modern Cambodia, at the height of its power and glory embraced a considerable part of what is now Thailand and South Vietnam; but under pressure of the Thai from the west and north and the Vietnamese from the east, Kambuja lost much of its territory. This pressure was relieved when France established control over Cambodia and its neighbors, Laos and Vietnam, but it was exerted again under Japanese aegis in World War II.

As the Cambodians see it, their situation is more precarious than ever. One of their neighboring traditional enemies is engaged in a bitter civil and ideological war with one part of the country supported by the United States, a superpower, and the other backed by its giant neighbor, Communist China. If the Viet Minh win, Vietnam will be united, and Cambodia will be under renewed pressure from Vietnam and, probably, ultimately from China. If South Vietnam and its allies win, the old squeeze by the Thai and Vietnamese will be resumed.

Professor Leifer, in his account and analysis of Cambodia's foreign policy, describes the brilliant work of Prince Sihanouk in maintaining stability within his country while wresting independence from France, and he explains why Sihanouk chose the policy of neutrality and how his government has practiced it. As Leifer observes, Cambodia's policy could be successful only if both sides in the Cold War

respected its independence, "either in their own interest or through fear of provoking each other," and if there existed an ideal balance of power among the blocs in the region. This condition existed when Sihanouk enunciated the policy of neutrality, but the balance became uncertain and Cambodia's policy with it. At times Sihanouk has been prepared to accept eventual Communist domination, pinning his hope on national unity to save the nation's existence in that eventuality. Since Communist China is certain to be the dominant power in the region, Cambodia must court the good will of Peking in the hope that it will restrain Phnom Penh's hostile neighbors.

This is not a big book, but it performs a large task very well. Leifer, in this volume, explains Cambodia's search for security in a deeply troubled part of a profoundly divided world. In accounting for Cambodia's foreign policy, Leifer also illuminates the complicated situation in Southeast Asia. He does not answer the question of whether Cambodia's policy is the wisest course nor does he explore the implications of such a policy for world politics and international security.

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WILLIAM E. WILLMOTT. *The Chinese in Cambodia*. Pp. 132. Vancouver: Publications Centre, University of British Columbia, 1967. \$5.00.

The author of this book, a British-trained social anthropologist now teaching at the University of British Columbia, carried out field research in Cambodia during 1962-1963. Most of this time was spent in Phnom-Penh, with visits to other parts of the country and a month's stay in the small town of Siemréap. The author, who had carried out research among Chinese in Canada prior to going to Cambodia, focused his research on the nature of the Chinese community and its relation to Cambodian society. Interviews were conducted by the author in either English, French, or Chinese. An assistant was hired for a short

time to collect biographies and demographic statistics.

Although there is a considerable amount of literature on overseas Chinese in Southeast Asia, there is, in the author's words, almost nothing on the Chinese resident in Cambodia. Thus, although Willmott was primarily interested in problems of social organization among the Cambodian Chinese, much of his time in Phnom-Penh was devoted to gathering basic statistical, historical, and legal data—as a basis for his social organizational (behavioral) focus. It is these basic data that are presented in the present work; the author's detailed study of social organization will presumably be published at a later date. Within these stated limits, the book is a welcome addition to the scant literature on Cambodia in English. It is well conceived and well written. And the author manages to present a wealth of data in a relatively few pages. Although the book is not meant to be a theoretical study, there are brief theoretical excursions—for example, on the nature of "plural society" in Cambodia—that promise richer rewards within the author's yet unpublished data.

A perennial problem in studies of overseas Chinese is how to define "Chinese." Willmott's approach to this problem is a pragmatic one: a Chinese is "any individual who supports or participates in some or all of the Chinese associations available to him." Using this criterion as the basis of questionnaires and interviews with influential Chinese in Phnom-Penh and the provincial capitals, he arrives at demographic statistics for the over-all urban Chinese population. For rural areas, where extended personal contact was impossible, the device was adopted of counting as Chinese all those persons listed as "merchant" in official (1958-1961) figures on rural occupations. Combining these two approaches, Willmott is able to suggest demographic statistics for the over-all Chinese population, by province, for the entire country. These he then projects against the forthcoming results of the official 1961 Census. His provisional estimate of a total Chinese population within Cambodia of 425,000—7.4 per cent of the

total population—is, not surprisingly, higher than existing official estimates. The more significant excess, perhaps, is in respect to the proportion of Chinese defined as “rural”—in Willmott’s estimation, some 41 per cent of the Chinese in Cambodia live outside the three or four major towns in each of the provinces.

Two appendices deal in detail with problems of demographic estimates and of census versus operational definitions of ethnic affiliation. An eleven-page bibliography gives an exhaustive listing of works dealing with or related to the subject of Chinese in Cambodia

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LUCIAN W. PYE. *Southeast Asia's Political Systems*. Pp. xi, 98. Englewood Cliffs, N.J.: Prentice-Hall, 1967. \$4.95.

One of the key sections in *Modern Political Systems: Asia* edited by Robert E. Ward and Roy C. Macridis was Lucian W. Pye’s study of Southeast Asia. Much of the material by the author is found in the volume here under review. By its printing as a single book entitled *Southeast Asia's Political Systems*, the publishers have appealed to the person who wants to focus his attention on the area without the temptation of reading about the political systems of other Asian countries. In view of the great interest in Southeast Asia today, the decision of the publishers is particularly valid.

The author analyzes the foundations of politics in terms of ecology, history, social structure, and ideology; political dynamics, the organs of government in decision-making, and governmental performance are considered; and a final chapter focuses on problems and prospects. Several comparative tables on the countries of Southeast Asia, as well as fourteen others on Asia, the United States, the Soviet Union, France, Great Britain, and West Germany, provide very valuable data on national populations and areas, indexes of industrialization, educational attainment and circulation of mass media, gross and per capita national

products, 1960, industrial origin of gross domestic product at factory cost, and exports and imports as a percentage of gross national product. A historical chart of Southeast Asia, a map of the area, outline descriptions of its political systems, a chart on religious and ethnic composition, and a brief bibliography are included.

From the theoretical viewpoint, Professor Pye is interested in comparative patterns of modernization in Southeast Asia. An area of ten political systems—Burma, Cambodia, Indonesia, Laos, Malaysia, the Philippines, Singapore, Thailand, North Vietnam, and South Vietnam—lends itself to various patterns of modernization. The comparative approach is especially valid for Southeast Asia. It presents both a challenge and an obstacle, the former arising from the wealth of data available for comparison and the latter from the difficulty in acquiring expertise to analyze the material. It may well be that the future of Southeast Asian studies, as distinguished from country studies, will depend upon scholars like Professor Pye who have the necessary skill and tools in comparative analysis. *Southeast Asia's Political Systems* merits a place in the library of all people interested in the area. Like *Social Forces in Southeast Asia* by Cora DuBois, it is brief, but it is basic.

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HOWARD L. BOORMAN (Ed.), in association with Richard C. Boorman. *Biographical Dictionary of Republican China*, Vol. I: *Ai-Ch'ü*. Pp. xv, 483. New York. Columbia University Press, 1967. \$20.00

Few books have been so long and eagerly awaited by the historian of modern China as this first volume of a projected five-volume, six hundred-entry biographical dictionary of Chinese who achieved eminence during the Republican period, 1911–1949. With no national biography or even systematic who’s who available for the Republican period, the task of tracking down information about even relatively prominent individuals often proves time-consuming

and frustrating. Odd though it may seem, it is generally more difficult to find the dates of some prominent figure who died during the past ten years than one who has been dead for over a thousand. When completed—Volume II is about to appear—this dictionary will carry on the invaluable work begun by Arthur Hummel in his *Eminent Chinese of the Ch'ing Period*, thus providing us with a basic collection of biographies ranging from 1644 to 1949. Since many people included in the dictionary are still living, the period of coverage actually extends to 1966.

In addition to political and military leaders, the work includes detailed biographies-in-brief of individuals prominent in diplomacy, business and banking, literature, the arts, scholarship, social reform, education, the press and publishing, science, religion, aviation, medicine, and other fields. The basis for selection was bound to be somewhat subjective, as the editor readily admits, and was often influenced by the availability of material. Political and military figures tend to dominate. For example, of the twelve entries under the surname Chou, only three may be described as cultural figures: Chou Shu-jen (Lu Hsun), Chou Tso-jen, and Chou Yang. The restricted nature of this list becomes apparent when we compare it with the more than eighty entries under Chou to be found in the Japanese biographical dictionary of Chinese cultural figures, *Chūgoka bunkakai jinbutsu sōkan*, published in Peking in 1940. Interestingly enough, Chou Yang does not appear in the Japanese work, and were it not for Chou's rise to the position of literary czar on the mainland after 1949, he probably would not have been included here either.

The original drafts of the biographies were written by various individuals, often intimates of the subject, and then revised or rewritten by Mr. Boorman and his staff. This enabled him to tap a great deal of what may be described as oral history, but it also means that the articles tend to vary in quality. We are also informed in the Preface that "a full bibliography, giving the sources used in preparing each article and the publications, if any, of the subject

of the article, will comprise the final volume of the work." However, it is to be regretted that this information could not have been included with the text, as in Hummel's work.

But whatever the weakness of the dictionary, it comes as a blessing to foreign students of modern Chinese history. Its value goes far beyond that of a simple dictionary in that it actually represents the most extensive history of modern China in any Western language. The biographical approach to history has its limitations, particularly when the various biographies are strung together in unrelated alphabetical order, but the wealth of material to be found in them fully warrants the extra effort required to search it out.

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TIMOTHY D. BAKER and MARK PERLMAN. *Health Manpower in a Developing Economy: A Case Study in Planning*. Pp. xi, 203. Baltimore: Johns Hopkins Press, 1967. \$6.50.

This book is the product of a medical doctor and a professor of economics, both with professional interests in public health. It is a valuable contribution to the growing field of health economics. A joint venture of American and Taiwan institutions, the co-operative effort was made possible by a grant from the United States Agency for International Development.

The book's purposes are straightforward: to assess the present relationship between supply of medical personnel and the economic demand for their services; to project supply and demand into the future; and to propose practical solutions for any imbalances.

As might be anticipated, the present "balance" conceals a shortage, especially of doctors and dentists. The 1973 and 1983 projections promise a more acute situation, with supply significantly below demand, notably an effective demand for about 30 per cent more than the 7,800 doctors expected to be available, and for 50 per cent more dentists than the 1,800 probably avail-

able at that future date. If anything, the authors' words and assumptions lead us to believe this is a conservative view of the future imbalance, for it applies a lower rate of national income growth than is currently being achieved.

The proposed solutions, however difficult to implement, are still straightforward: first, expanded training facilities—very soon, since the lead factor in output is about seven years for doctors and five to six years for well-trained dentists; second, salary improvements, especially for personnel in the public services—now with 30 per cent of the total supply of doctors); and third, measures for more efficient use, particularly greater specialization to permit transfer of appropriate less specifically medical functions from doctors to nurses. Present training plans promise what appears to be an oversupply of nurses over the next decade or two.

The authors present comprehensive information on the medical personnel position in Taiwan and on training facilities and competence. Their projection of effective demand is an ingenious as well as interesting effort, though one might want to debate their conceptualization of the fundamental relationship between health expenditures and total expenditures adjusted for health outlays. They undertook 66,000 interviews to provide basic data, especially on demand for services. Their multisort analysis—described in a special appendix by Dr. William Reinke—seems to be a useful variant of the analysis of variance for dealing with the irregular distributions characteristic of their data on demand for health services. On all these points, the study marks a new and original approach to the problem of changes in the medical personnel establishment.

One must agree with their conclusions on the need for expansion in the medical service establishment in Taiwan and, indeed, in any developing country. However, given Taiwan's unusual development record, one might argue that it will meet its basic needs in the health area to a greater degree than will most of the world's poor nations, with their lower rates of growth. A rapidly growing nation has higher ex-

pectations, but its capacity for filling them does increase. The single most important prescription for a poor nation's health facilities is improvement in its over-all rate of economic expansion.

This may be obvious and reflected in the important role which the authors give total per capita expenditures—or total per capita income—in the measure of demand. But they fail to recognize the nature of the health role, and the nature of the supply function for medical personnel. For I would argue—or at least assume—that health facilities are an independent contributor to national growth. Indeed, skilled medical personnel, like economists, engineers, management specialists, agronomists, nuclear physicists, and more, are all essential "inputs" in the growth process. They must all compete from the source pool of college students. Health manpower needs, I would think, must be appraised in this dimension of demand and supply. Not that such general equilibrium procedures and solutions are easy, but even posing them would permit an improved perspective on the partial equilibrium nature of the present analysis.

There is one final point to make: a coordinated national approach to skills in development may serve to counter the present seeming lack of enthusiasm for entering into the professions. Despite the high rewards in medical practice—especially for private personnel—too few enter. Too many who do are drained away to better personal opportunities abroad. The widening horizons of a developing nation, with explicit national recognition of the role of the educated and of the scientific specialist in the nation's future, may best serve to close the gap between medical services and the demand for them in a developing economy.

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AUDREY DONNITHORNE. *China's Economic System*. Pp. 592. New York: Frederick A. Praeger, 1967. \$13.50.

China's Economic System is an essential and useful book. The author comprehen-

sively surveys the institutional and operative framework of Communist China using basically a microeconomic approach rather than dwelling in the cosmology of macroeconomic generalities and models. The bibliographic references and annotations are exhaustive. The only complaint here might be the occasional academic esotericism of citing, for key points, unpublished theses or papers not generally available. The work is accurate; one notices only such errors as the description of Anhwei as "coastal" (p. 463), or slips in Russian words (p. 27). Adequate indexing is another advantage.

Miss Donnithorne's "institutional economics" approach is most helpful for social scientists and general readers who wish to follow China's evolution at ground level as well as in the highlights of policy and propaganda. She seeks to trace the motivations of all the participants. Joining scholarship with a real-life "feel" for China—where she was born—Miss Donnithorne does all this most ably.

Her introduction stresses such continuing themes as the complexity and diversity of conditions in this vast country, in contrast to the centralization of decisions and power on which communism must insist, and she shows the efforts and structures which follow from this. In the next three chapters she meticulously charts its agrarian problems and progress, on which the fate of China still depends. The extreme variations of policy, representing zigzag advances and retreats for the Communist party, have created, in the 1960's, a situation similar to the New Economic Policy phase in Russia before Stalin—"such a luxuriant development of private activities" (p. 110) that the future of China, or particularly that of the mold in which Mao would shape it, is in grave doubt.

In the next five chapters she discusses aspects of industry in terms of the exact results for the producers and users, the great pressure of population, and the prodigious investment and effort with uncertain returns. She reviews trade and distribution (three chapters) and all aspects of planning and monetary-fiscal affairs (five chapters). There are fifteen pages of con-

clusions in which the findings are summarized: economic realities and a great people's desire for true modernization overwhelmingly impose modifications of Communist aims. As Karl Marx revolves in his grave, "even a Marxist state is not above being shaped by the play of productive forces" (p. 511).

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RICHARD L. PARK *India's Political System*. Pp. xi, 116. Englewood Cliffs, N.J.: Prentice-Hall, 1967. No price.

This book is a textbook intended for courses on India and for courses in comparative politics. It invites comparison therefore with similar textbook introductions to Indian politics. There are now at least three other comparable texts written by scholars who have, in addition to their textbook writings, made more substantial contributions to scholarship. I would include on the list Norman Palmer's *The Indian Political System*, Hugh Tinker's *India and Pakistan*, and W. H. Morris-Jones' *The Government and Politics in India*, although this latter work is considerably more than a text.

Of the four books, Park's is the slimmest and necessarily is briefer in its coverage. It would, I think, be the least satisfactory for a course that dealt exclusively with India. On the other hand, it is probably the most useful of the books for an undergraduate course in comparative politics, especially since there are companion volumes in this Prentice-Hall series, on China, Japan, the Middle East, and Southeast Asia. In fact, all these small volumes were originally chapters of Robert E. Ward and Roy C. Macridis' (Eds.) *Modern Political Systems: Asia*, published by Prentice-Hall. These chapters have each been brought up-to-date and published separately in paperbacks. Park's volume, like the others, begins with an introductory chapter on the history of India, continues with a brief account of the ecology and social structure

of the region, and then turns to an analysis of the political system itself. These latter sections cover the political developments since the 1967 elections. The tone of the book, as is characteristic of most texts, is strongly factual. There are many useful tables on Indian economic development, social structure, and election returns and a number of useful tables comparing India with other underdeveloped countries. The book concludes with a selected bibliography.

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B. N. PANDEY. *The Introduction of English Law into India: The Career of Elijah Impey in Bengal, 1774-1783* Pp xii, 248. New York: Asia Publishing House, 1967. \$6.75.

This is a most perceptive and thorough study of the activities of the first Chief Justice of the Supreme Court, established at Calcutta by Lord North's Regulating Act of 1773. In sifting the sources now available in the India Office records and elsewhere, Dr. Pandey has gone further than was possible for Sir James Stephen and his Victorian contemporaries. The famous cases of Nandakumar and the "Patna Cause" have not received so much attention since the days of Edmund Burke. Other cases of equal significance have been resurrected and set beside them. Through giving attention to these hitherto neglected cases—"Creasy's" and "Cottrell's" are notable examples—Dr. Pandey has well substantiated Impey's claim in 1778 that "in and near Calcutta, the Court has very nearly had the complete effect of giving security to the persons and property of the natives." The reader is made vividly aware of the role of the Supreme Court in forcing Warren Hastings to reorganize the East India Company's courts. In short, this aspect of Impey's work may be seen as a foundation on which Cornwallis was soon to build his own reforms of the Company's services.

The treatment of the Nandakumar trial and the "Patna Cause" is less satisfactory. It does not seem fully in touch with the

life and atmosphere of the time, with the loves and hates rife in a small community of European "exiles." Dr. Pandey's verdict is unhesitatingly in favor of Impey's conduct of both trials—the one resulting in Nandakumar's conviction and execution for forgery and the other in the reversal of the decision by the Company's Patna Council in the Patna inheritance case. His study of these cases would surely have benefited by greater attention to the opposition to the Court and to Impey. One is left wondering whether, after all, the dissensions among Hastings' council did not have more to do with the Nandakumar story and whether there is no more to be said for the Muslim magistrates who advised the Patna Council. In particular, more explanation of Burke's opposition to the Court would have been helpful, since most readers will expect to find Burke supporting a Court which did so much to protect Indians from oppression. Lack of an adequate account of the unsuccessful attempt by Burke and his friends to impeach Impey leaves the reader under the impression that Impey, like Hastings, had to stand trial before the House of Lords. Impey's prosecutor, Sir Gilbert Elliot, is at one point (p. 58) confused with his brother Alexander Elliot.

Dr. Pandey has in this monograph made a notable contribution to the literature on the beginnings of English law in India. His work takes its place beside such works as those of Sir Charles Fawcett on *The First Century of British Justice in India*, of Dr. Niharkana Majumdar on *Justice and Police in Bengal, 1765-1793*, and of M. E. Setalvad on the *Common Law in India*. This book is best described by its subtitle. The introduction of English law into India is a large subject which is still in need of comprehensive treatment.

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MARIE SETON. *Panditji: A Portrait of Jawaharlal Nehru*. Pp. 515. New York: Taplinger, 1967. \$12.95.

The author of this long—and overpriced—volume has attempted to present a

"personal portrait" of Jawaharlal Nehru, together with an exposition of "Nehruism" and its "implementation on the world scene" (p. 502). The book was twice rewritten (p. 501). It has been no less troublesome to review. Certain flaws are obvious: the "portrait" remains blurred; Nehru's ideas are grossly oversimplified; explanatory comment is both superficial and fiercely partisan; factual errors, although mainly small ones, abound; and Miss Seton's personal history intrudes beyond the bounds of relevance. In short, the book could be dismissed as a pretentious journalistic effort, but for an underlying seriousness which bears witness to the author's genuine involvement.

We are quickly made aware of the heavy burden of guilt regarding British rule in India, which was saddled on Marie Seton in her childhood (p. 34). This guilt impelled her to kneel at Gandhi's feet in 1931, colored her relations with individual Indians, and may have placed any real objectivity toward India beyond her reach. Be that as it may, we are warned by the life story she forces upon our attention to question her interpretation and to focus instead on her "candid camera" shots.

The author's acquaintance with Nehru began with a dismally unsuccessful interview in November 1955, soon after her first arrival in India. Her work as a film expert, however, soon brought her in touch with Indira Gandhi. Their growing friendship brought Miss Seton into the Prime Minister's house on her visits to New Delhi although, with few exceptions, her contact with Mr. Nehru remained casual until a little before his death. It was in November, 1963 that the question of writing this book was brought up with Mrs. Gandhi. Mr. Nehru then permitted Miss Seton to follow him about and promised her intensive interviews later. Illness and death intervened before this promise could be redeemed.

Miss Seton is frank in conceding that she often did not understand Mr. Nehru, nor did she feel free to press for explanations. Nevertheless, provided care is taken to discount the prejudices to which the author gives full rein; there is interest

in her firsthand testimony which touches on such points as Nehru's relations with Krishna Menon, Sheikh Abdullah's stay in New Delhi, and the twenty-four-hour period following Nehru's death. A "postscript" gives a sketch of Mrs. Indira Gandhi. The "portrait" of Krishna Menon—whatever its worth as a likeness—is vivid enough to suggest that it was he rather than Nehru who captured the spotlight of the author's artistic imagination.

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MOHAMMAD AYUB KHAN. *Friends Not Masters: A Political Autobiography*. Pp. x, 275. New York: Oxford University Press, 1967. \$7.50

Statesmen rarely publish their autobiographies while in office. It is all the more difficult when a person has to take full responsibility for effecting, within less than a decade, virtually a total redirection of the State he heads. The book, by and large, is an account of the crowded and eventful six or seven years since the October 1958 "revolution" of Pakistan, when the constitution of the First Republic of Pakistan was abrogated and martial law imposed. It closes with an account of the presidential election in January, 1965, under the new constitution of the Second Republic.

As Martial Law Administrator, chief executive, head of state, originator of ideas, social reformer, and international negotiator, President Ayub emerges from the narrative as much a theoretician of politics as a man of action. He shows a remarkable capacity to reconcile emotional purposiveness with a respect for facts, indicating the limits of his nation's powers.

Essentially a soldier, he makes no secret of his dislike of both politics and the politicians. However, once he took over the reins of power, more by accident than by design, he showed no reluctance to wield them to achieve the objectives of

revolution. Three things are noteworthy in this connection: in the conduct of government, he has generally relied on the existing civilian machinery, he has kept his colonels in the barracks, and, above all, has shown some positive results. His narrative of the land reforms (pp. 86-93) and the making of the 1962 Constitution (pp. 186-227), with the concept of "Basic Democracies" creating institutions "which people can understand and work," effectively reflect his political style and his thought patterns.

It may be too early to say that institutions thus created have taken roots "ensuing freedom and order"—in the body politic of a country split into two units a thousand miles apart and torn by all kinds of dissensions, but the evidence available so far of the working of the constitution is more on the side of President Ayub's claims and hopes.

By far the most interesting and forthright part of the book is the seventy-three-page (pp 114-187) account of Pakistan's foreign policy, with its dual goals of national security and development. The cause of Pakistan's major problem, according to President Ayub, is "India's inability to reconcile herself to our existence as a sovereign independent state" (p. 115). That "compelled" Pakistan to align herself with the West and to ignore completely her two major neighbors, China and the Soviet Union. However, after the Sino-Indian clash of 1962, when the United States started arming India without the promised prior consultation with Pakistan (p. 138), "it became clear to us that in the event of India attacking us, it was most unlikely that the U.S.A. would honour its commitment and come to our assistance" (p. 153). This fear led to Pakistan's "normalization" of relations with China and the Soviet Union. He regrets that "the great opportunity which history had offered for a settlement of the Jammu and Kashmir dispute" in 1962 was lost because of the United States' refusal to play a direct role in it. He, of course, does not believe that China has any interest in acquiring Indian territory.

He sees both positive and negative as-

pects of the Central Treaty Organization (CENTO) and sees no reason for joining the Southeast Asia Treaty Organization (SEATO). However, by now both organizations have lost much of their value; and "I doubt if it would do anybody very much harm if both these pacts were done away with" (p. 158).

He warns the Afro-Asian countries that they will stay as "sub-nations" and will be swallowed by "whoever finds an opportunity" (p. 182) unless they organize themselves in regional and economic groups in order to co-ordinate their respective patterns of production with a view to encourage trade among themselves and for collective bargaining with the developed nations (p. 185).

He feels that as the Cold War between the United States and the Soviet Union recedes, "aid," which has been an instrument of it, will become more and more inaccessible to smaller nations. It will become a pure commercial transaction. With access to the markets of developed countries denied to them, the developing countries will have no way of repaying their debts, and a time may come when the developing countries may have to ask for a complete moratorium on repayment of their loans (pp 183-184).

It is not merely as a narrative of events in Pakistan but as a frank indicator of significant political and economic trends in several other Asian countries as well that the value of the book lies. It is highly recommended for all students of Asian Affairs.

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DAVID H. FINNIE. *Pioneers East: The Early American Experience in the Middle East*. Pp x, 333. Cambridge, Mass.: Harvard University Press, 1967. \$7.50.

It is good, in these parlous times, to read a book like *Pioneers East*; for, with all the troubles confronting the United States in the Middle East, whether in con-

nection with the Arab-Israel conflict or with Greece and Turkey over the Cyprus problem, one may forget, if he ever knew, the long past in American relations with the peoples of that area. He may forget both the long-enduring American missionary-educational-philanthropic and the American commercial interest and those who played a significant role in their development. As Mr. Finnie, a scholar, a lawyer, and a businessman, tells us, it is no mere "sentimental pastime" to bring the "Pioneers East" back to life, but "an exercise in the rehabilitation of a significant aspect of our national heritage"—a heritage which gives a deeper and broader dimension to the more immediate and contemporary concern with international politics in the Middle East.

Here is the story of the diplomats, the sailors and soldiers, the missionaries and educator, the traders, and even some of the madmen, who journeyed to the Ottoman Empire and Persia in the earlier nineteenth century and who left the legacy of today's heritage, now so much in jeopardy. Readers will find of special interest the story of David Offley and the consulate in Smyrna, the account of the negotiation of the first American-Ottoman Treaty of 1830, and the role of Henry Eckford and Foster Rhodes, as shipbuilders, in obtaining formal ratification and in reconstructing the Ottoman navy after Navarino. The early missionaries—William Goodell, Pliny Fisk, Levi Parsons, and others—are all there, together with a delineation of their lives and their good works. John P. Brown, who spent forty years in the American Legation in Constantinople (1832–1872), and who became an amateur orientalist, is well characterized. George English, Lt. William Lynch of the United States Navy who explored the Jordan Valley and the Dead Sea on an official mission in 1848, and many others are described.

While Mr. Finnie is concerned with the legacy and the story, he well notes that, "in pursuing his business affairs an American today can use the patience and tact of a David Offley, the sympathetic understanding of a William Thomson, and the old-fashioned Yankee know-how of a Henry Eckford or Foster Rhodes. So can the

AID official and the diplomat, the archaeologist and the educator." Those currently concerned with Middle East problems, in whatever capacity, can also learn much from reading these pages, while contemplating the passing scene, and can see their own work in terms of the long American relationship with the Middle East. The work is not only well researched, with ample use of private papers, the National Archives, and long-forgotten memoirs, but it is written with grace and perception. Moreover, it contains an excellent bibliography, which will guide readers to many of the older, as well as to the newer, books in the field. In short, this is the kind of book which all Americans with a special interest in the Middle East will read with much profit and much pleasure.

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LEOPOLD LAUFER. *Israel and the Developing Countries: New Approaches to Cooperation*. Pp. xiii, 298. New York: Twentieth Century Fund, 1967. \$6.00

Israel's technical aid program to the developing nations has received scant attention in the (non-Israeli) press and in the professional publications specializing in the study of the developing economies. The only other book on this subject is *Israel and Africa: A Study in Technical Cooperation*, by Kreinin (New York: Frederick A. Praeger, 1964). A *New York Times* correspondent, writing from Chile, notes that "the Israeli program, while small in comparison with U.S. aid to the continent, has been remarkably successful." (*The New York Times*, June 26, 1967, p. 3). Similarly, a *Times* correspondent writing from the Congo states that the Israelis "have low-keyed but highly effective non-military technical assistance programs. They are doing this in virtually all of West and Central Africa." (*The New York Times*, July 30, 1967, p. 4E) *Newsweek's* assessment of the United States Peace Corps and of analogous programs of other countries notes that "Israeli corps-

men have met with such quiet and persistent success over the years that Jerusalem now receives about 500 requests a month for technical assistance" (*Newsweek*, Feb 14, 1966, p. 47).

Mr. Laufer's study provides a detailed description of the many kinds of programs, including training programs for nationals of the developing countries in Israel, as well as on-the-spot training programs and technical aid experts.

Israel possesses certain unique advantages in comparison with many of the developed countries. It can call on a large number of experts conversant in English, French, and Spanish, languages widely used in the developing countries. Its success in developing a modern agriculture—as well as other sectors—with some unique socioeconomic institutions—collectives, co-operatives, regional councils, and the like—arouse the admiration of visitors from the developing countries. The crucial question is the transferability of any of these institutions to other countries. The author does not give a thorough analysis of attempts to adapt the *moshav*—co-operative farm settlement—in some of these countries. There are courses offered by the Histadrut—Israel's all-embracing trade-union organization—in trade unionism and co-operative enterprises. The author does not sufficiently evaluate the impact that trainers had in their own countries. Many of the African countries have tried to adopt and adapt the youth training programs. Here, too, there is insufficient analysis of their successes and failures.

There are political, social, and, to some extent, economic motives impelling the Israelis to launch, and partly finance, a program of such magnitude—in relation to the resources of the country. Primary amongst these is the political motive. The hostility of the Arab countries, and their continued efforts to enlist international support for their anti-Israeli position, have induced the Israelis to seek widespread international support. The technical aid program has been their main weapon in winning the support, or, at least, neutrality, of many developing countries. In some

cases, it has provided an outlet for Israel's surplus manpower in certain skills. From the point of view of the recipient nations, there are a number of factors persuading them to prefer Israeli aid to other foreign aid, even where the alternative is available. The developing countries are not satisfied with the counsels of patience offered by the highly developed countries, namely, that it took them many decades or centuries to achieve a high level of development. They are looking for "short-cuts," and the fact that Israel is a new, yet, developed country convinces them that they have much to learn from Israel's experience. They do not fear any "imperialist" motives on the part of Israel as they do from the major powers. The Organization of American States, as well as a number of individual Latin-American countries, have been very enthusiastic recipients of Israeli aid—financed in large measure by the United States' Alliance for Progress funds—and it would seem that the motives are not only the fear of overdependence on the "Colossus of the North" but an (unspoken) fear of increasing the "brain drain" Latin Americans studying in the United States frequently fail to return to their home countries. No such fear exists with respect to Israel.

The author concludes his book with a brief description of other aid programs, especially on the part of some developing countries to others. Taiwan's and Yugoslavia's aid program are especially noted. He suggests that this avenue of approach to foreign technical aid has received insufficient attention, and he notes the many advantages of these programs as compared with those of the highly developed countries. He would have strengthened his case had he provided detailed case studies of some of these programs. Nonetheless, the book is an important contribution to the study of economic development and the role of various foreign aid programs in aiding this process.

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IRA MARVIN LAPIDUS. *Muslim Cities in the Later Middle Ages*. Pp. xiv, 307. Cambridge, Mass.: Harvard University Press, 1967. \$7.50.

As a first major effort by a young scholar, this book is a tour de force. Dr. Lapidus has taken a dauntingly difficult subject of fundamental importance to Islamic studies, and by his brilliant research and illuminating insights he has dispelled many of the shadows and misapprehensions that heretofore marred our understanding of the Muslim medieval city. True, many problems remain—most beyond the scope of this work—but the author has pointed the way.

The terms of reference—the problems, the methodology, the fresh approach (which convincingly highlights the inadequacy of older treatments)—have all been clearly and intelligently set forth. Within those terms of reference, Dr. Lapidus has succeeded in achieving his objectives. His chief purpose has been to piece together the social and political life of the medieval Muslim city which, lacking the institutional cohesiveness of its European counterpart, has appeared so amorphous, disparate, and complex in structure. Not only has Dr. Lapidus provided us with this mosaic, but he has also shown how one element of urban society related to and interacted with another, revealed the forces that governed these relationships and held them in balance, and, perhaps most importantly, told how the Ulema served as the nexus that bound together the whole mosaic.

At the same time, Dr. Lapidus has also brought to light several aspects of Islamic history whose importance is too little appreciated or about which we must now abandon previous assumptions. Two examples will suffice to illustrate the point. He brings to bear considerable evidence that the tribal factor in Muslim society remained vigorous and found significant expression in urban society. The inner organization of the city quarters, he reveals, was apparently based on families or clans (see for example, pp. 91–95). He also affirms the contentions of other scholars such as Professors Samuel Stern and S. D. Goitein that medieval guilds of the

European or Byzantine model had no counterpart in the economic life of the Muslim city; moreover, he states that aside from the silk workers, “there is no evidence to my knowledge of any other craft-based religious fraternity” (103).

For all the sociological implications of his subject, the author has executed his task as historian, a modern historian with an appreciation for the social scientist's techniques and criteria. His work is essentially descriptive-analytical rather than sociological; consequently, a full sociological treatment of medieval Muslim urban life remains to be undertaken, but with this book, it should now more than ever be possible to do so. Some scholars may feel that Dr. Lapidus has accorded insufficient importance to certain aspects of his subject, such as the integral relationship between the physical characteristics of the city and its economic and social structure. If, indeed, such is the case, one can feel confident that other scholars, such as Drs. George Scanlon, Janet Abu Lughod, and André Raymond, will soon right the matter. (It is of passing interest, and will give some indication of the range of skills needed for such a study as this, to note that the three aforementioned scholars are, respectively, an historian-archaeologist, a sociologist, and an economic historian.)

In conclusion, Dr. Lapidus is clearly an imaginative and expert researcher; he has mastered a prodigious quantity and variety of sources in several languages; he has control of the sources as is evident in the skillful organization of the text, notes, and bibliography; he expresses himself with economy at no sacrifice of style, and he has compiled a comprehensive bibliography that will serve the student and specialist alike in good stead.

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ROBERT GERAN LANDEN. *Oman since 1865: Disruptive Modernization in a Traditional Arab Society*. Pp. xv, 488. Princeton, N.J.: Princeton University Press, 1967. \$12.50.

To this reviewer's knowledge, this is the first systematic study of modern Oman in a Western language. Oman, situated on the entrance to the Persian Gulf and comprising the southeast corner of Arabia, cannot be studied in isolation. Its history, as the author of this book demonstrates, was closely related to the history of its neighbors, especially to Persian Gulf powers. Oman's domestic affairs were, therefore, necessarily influenced by the penetration of European powers into the Persian Gulf, especially Great Britain. The intrusion of these powers into the Gulf influenced to a greater degree the internal development of the Gulf principalities than of other coastal states, and their traditional structure—social, economic, and the like—was bound to change under the impact of European trade and technology. The traditional society began to modernize, but this process of development proved to be quite disruptive to a traditional way of life and caused violent disturbances in the country's domestic politics. This, in brief, is the central theme of Dr. Landen's careful study of Oman, and its modern history is studied in terms of the stages of development under the impact of Western trade and technology.

Since modernization is the principal aspect of Oman's history, the author devotes the greater portion of the book to the penetration of European influence, especially British influence, into Oman and the Persian Gulf and the political and economic changes that these countries have undergone since the mid-nineteenth century. A brief discussion of early Oman history, its social and religious structure before European penetration, are sketched; but the author provides a more detailed history of British connections and policies toward the Persian Gulf and Oman during the latter part of the nineteenth century. Parts II and III are almost entirely devoted to these aspects. In two chapters of Part IV, a relatively small portion of the book, the author discusses the impact of European influence on domestic politics and the internal resistance, as well as the accommodation to foreign influence; but one would wish to know more about the

patterns of intricate domestic politics than the author provides, especially in more recent times. The twentieth century is, indeed, briefly discussed, in a short chapter, as an epilogue.

The author's approach is essentially narrative rather than analytical, but factual material is very much needed about a country not very well known to Western scholars. Dr. Landen discusses the classical theory of the khariji creed, of which the Ibadi is a subdivision; but he does not clearly indicate the real difference between the two, nor does he trace the institutional changes from the classical to the pre-modern. In theory, the kharijis, like the philosophical anarchists of modern times, saw no need for authority, but in practice developed their own theory of the Imamate and rejected the Sunni Caliphate. The Ibadis, though owing allegiance to their own Imam, acknowledged the Sunni overlordship and thus were able to survive. The other khariji sects, always in conflict with Sunni authority, perished.

The author's system of transliteration is not always consistent. If the term *Oman* has been Anglicized, then *Muscat* rather than the more correct *Masqat* should have been used. The Bibliography and the Index are most complete, and the author is to be congratulated on such a thorough historical study.

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RICHARD G. HOVANNISIAN. *Armenia on the Road to Independence, 1918*. Pp. viii, 364. Berkeley and Los Angeles: University of California Press, 1967. \$8.50.

The road to Armenian independence in 1918 was through a blood-bath of more than 1,000,000 Armenians in Turkey in 1915. Several hundred thousand Armenians had escaped that holocaust and had found refuge in former Armenian territory in the Caucasus. Behind the Russo-Turkish battle front, misery, famine and in-

escapable death by the thousand was their lot. There the leaders of Armenian communities did their utmost to care for their unfortunate kinsmen, but they could not help all these refugees. And the wartime czarist government there, fully preoccupied with the war, seemed ungenerous in aiding these victims of the Turks.

Through most of the war, the unhappy situation did not change, but after the overthrow of the czarist regime, the Armenians and other nationalities in the Caucasus confidently hoped for better days. Then, as the new Russian regime (March–November 1917) proved to be a broken reed, their hopes were dashed. Meanwhile, as the Russian forces began their withdrawal from the Caucasus, and as the Armenians, Azerbaijanis, and Georgians could not halt the Turkish advance, the Turks drove deep into the region and succeeded in imposing something of a Carthaginian peace upon a so-called Democratic Federative Republic of Transcaucasia in April of 1918. Even then the Turks continued in their advance, causing the collapse of the Federative Republic of Transcaucasia. Then late in May of 1918 the three principal nationalities—Armenians, Georgians, and Azerbaijanis—proclaimed their independence. The Armenian Republic was proclaimed on May 28, over an area about 4,000 square miles and with a population of less than 1,000,000, nearly half-homeless refugees.

The tangled, tragic, and often twisted story of the Armenian people during their years of "blood, sweat and tears," based on a large variety of published works and archival sources, is set forth in this straightforward and scholarly narrative by Professor Hovannisian. In many ways, his is the fairest and the most detailed account of cataclysmic events in Transcaucasia during World War I, as studied by an Armenian American. He has utilized all important relevant publications in several languages—including Russian and Turkish—and the archives of the Armenian Republic—now in Boston. The book is copiously annotated and has a valuable bibliography and a good index. Hovannisian's story ends with the birth of the Republic, but he promises to

write its two-year stormy history in another volume.

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GERALD K. HELLEINER. *Peasant Agriculture, Government, and Economic Growth in Nigeria*. Pp. xx, 600. Homewood, Ill.: Richard D. Irwin, 1966. \$9.25

The incongruities of economics in the underdeveloped world are well illustrated in this thorough volume about Nigeria. The "big business" of that country was the peanut industry. In the late 1950's, Shell-BP found oil and that, obviously, changed the situation. Shell exported petroleum worth £32 millions in 1964, employing 2,800 workers of all grades. The peanut industry exported its product in the same year in the same amount. But the number of its workers ran into millions. The value of oil exports in 1970 was expected to rise to more than the total value of all Nigerian exports in 1964. That was before the country was visited by its "time of troubles."

Two-thirds of the total projected investment in the current national development plan, on the one hand, the author points out, was to come from the public sector. On the other hand, £200, representing more than a half of the investment of the private sector was to come from external sources. These calculations, too, did not take into account the "time of troubles."

During the first year of the plan, the author writes, the value of the domestic product was estimated to have risen by 5.7 per cent, as against the 4 per cent target. But "the progress of the Nigerian economy during the years of the National Development Plan was prepared has probably not been affected very much by the existence of the plan itself." What, then, does the plan do? Not much, perhaps, but it is fashionable to draw up plans.

Substantial parts of the book are devoted to the problems of such traditional products as peanuts, oil palm, cocoa, cotton, and rubber; to their marketing; and also to the questions of public develop-

ments and revenues. A chapter is devoted to the particularly important problem of distribution of public revenues among the various federation members.

The documentation in this book is exceptionally thorough. In addition to more than seventy "Tables" in the chapters themselves, about a half of the book is devoted to a statistical appendix. In this connection, the reviewer recalls a seminar he attended recently at Columbia at which the learned United Nations delegate from Nigeria started his presentation by disclaiming knowledge of the population figure of his country, shrouded in mystery, in spite of a census. One hopes that the data provided by the Nigerian government on more esoteric subjects are more reliable. Whether they are or not, the painstaking research of Gerald Helleiner is an achievement not to be overlooked.

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M. V. JACKSON HAIGHT. *European Powers and South-East Africa: A Study of International Relations on the South-Eastern Coast of Africa, 1796-1856*. Pp. xv, 368. New York: Frederick A. Praeger, 1967. \$9.50.

This is a most interesting and valuable book. There is a wealth of important information for all students of African and international history. Much of the value and interest of this study derives from the fact that it contains the fruits both of a scholarly re-examination of old and new evidence and of a mature synthesis of varying interpretations from different standpoints.

In its original form, published in 1942, the book represented the pioneer researches of Dr. Mabel V. Jackson—now Mrs Haight—which were made in 1937, that is before the appearance in print of Professor Sir Reginald Coupland's *East Africa and Its Invaders* and Professor Eric Axelson's *South-East Africa*. Having conducted a

great deal of careful archival investigation in Lisbon among documents hitherto unused or little used by English-speaking scholars, Dr. Jackson's original volume contributed very substantially to knowledge. On some points her work corrected certain erroneous statements by Coupland in his more widely known writings.

Now, over twenty-five years since the first researches and publication, we have the benefit not simply of a reprint but of a lively new book, one which incorporates the contributions of the intervening years and yet carries the conviction and assurance of a good vintage wine. Would that we could have more and more works of this kind to enrich the world of scholarship and understanding. Mature, reflective reappraisals are always significant, but in the field of African history they are as welcome as they are rare, and they are doubly pleasurable when they are offered with the modesty and restraint shown by Mrs. Mabel Jackson Haight.

Mrs. Haight, in placing her focus upon Southeast Africa, chiefly the littoral of Portuguese East Africa—or Mozambique—together with the mid-Zambesi valley of the Portuguese Province, has helped fill several gaps in the knowledge of this part of Africa during a highly significant period of its modern history. But even more she has made a very notable contribution to the understanding of the diplomatic history of the period. In particular, she is to be congratulated for her skill in drawing together so many diverse yet closely related strands which are usually dealt with separately or in different contexts. The growing interest in Southeast Africa of the European powers during the late eighteenth century and the early half of the nineteenth century is well brought out, especially the various schemes and rival maneuverings of the Portuguese, Spanish, Dutch, French, and British and later the Germans. But the title of the book is in some sense a little misleading, because Mrs. Haight's study leaves the reader very aware not only of the long-standing Arabian and Indian ties with Southeast Africa but also of the strong North and South American links. Though Brazil's

relationship was naturally more intimate within the framework of the Portuguese imperial system, and more especially so when the Imperial headquarters were located in Brazil, the United States held and strengthened many trading and other interests during the period under review. Relations with the Boer frontiersmen and with representatives of the then independent South African republics are also dealt with in a most interesting fashion, and the reader is made aware of many of the frontier, labor, communications, and related issues which were to recur again and again in southern and Central Africa down to the present day.

One is, indeed, impressed throughout the book by the contemporary relevance of many of the statements and issues—Napoleon's closure of Europe and its effects, Anglo-French rivalry overseas, the British attempts after 1807 to impose a partial naval blockade on Beira and other Portuguese East Africa ports, and the world strategic picture with the Suez passage unopened, open, or closed as it has been now for six months. One must, of course, not strain or exaggerate the contemporaneity of any historical study. But for the informed and alert reader, who will be aware of the "Scramble for Africa" and the full course of African and international history, and of technological development, during the century which has elapsed since Mrs. Haight's terminal date, and the crucial Suez campaign of 1956—and from Suez to the present day—certain persistent facts or enduring realities will be of the greatest interest. Certainly this book, with its valuable appendices, charts, and bibliography, makes plain the benefit which students of contemporary international relations can derive from good, well-documented historical analyses, especially if it is read with the aid of the maps available in any good modern atlas.

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GEORGE W. BAER. *The Coming of the Italian-Ethiopian War*. Pp. viii, 404.

Cambridge, Mass.: Harvard University Press, 1967. \$9 50.

The recent publication of P. Harris Jr.'s *The United States and the Italo-Ethiopian Crisis* (1964), Ludwig Shaefer's edited *The Ethiopian Crisis* (1965), and now Baer's book represent a renewed interest in the Italo-Ethiopian conflict. Although much of the concern lies in "history for the sake of history," one major reason for this concern is the need felt by some scholars to re-examine attempts at collective security through international organization. Baer's purpose is to throw light on the diplomatic, political, and military aspects of the crisis—a purpose which is well accomplished—but it is the broad question of European politics and international collective action which looms large in the volume. The working premise of the author is that which William Langer established in his classic *The Diplomacy of Imperialism* (1935); imperialism was inextricably intermeshed with the dominant questions of European internal and external politics.

Those familiar with the vast literature on interwar diplomacy and the League of Nations will not find in Baer's work any new propositions which affect well-established conclusions on the conflict. The major value of the work is its careful and meticulous use of all the available sources—about five hundred—which deal with the brief but crucial period from May, 1934 to October, 1935. The result is that many old assumptions are reinforced and that our knowledge on the subject is expanded. For example, the old British permissiveness over Ethiopia becomes boldly clear; Avenol was the key person to keep Ethiopia from putting the issue on the Council's agenda; Britain was ready to hand over the Ogaden to Italy; Italy had no intention of ever reconciling the dispute; the Ethiopians were rarely if ever consulted; the prospects of conflict with Britain led to a crisis within the Fascist regime; and Hoare kept much of his duplicity from the Cabinet.

Even with such an exhaustive study as Baer's, we shall have to postpone final judgments until more time and evidence allow greater detachment and more intense analysis. This was an Alice-in-Wonderland

period of diplomacy, and Baer has had to struggle between fact and fiction, between hypocrisy and truth, and between utopianism and realism. And it was no easy task to attempt to judge judiciously the actions of such men as Vanstittart, Laval, Simon, Avenol, Grandi, Eden, Hoare, and Alsoi. Even more difficult was it to grapple with cause-effect relationships. In any event, Baer regards the British—particularly Simon and Hoare—as the main culprit—with France a close second—in the collapse of effective sanctions and the subsequent demise of the League. His estimate of the French, similar to Toynbee's and Garthorne-Hardy's, seems quite correct. Laval was not the "rotter" that Vanstittart claimed him to be, and the French showed a greater frankness than did the British.

Several small exceptions can be made as to the book's over-all treatment. The Vatican, the United States, and Germany were given short shrift. Although the author does a good job in dealing with the impact of domestic problems and policies on British and Italian external relations, he fails to deal with the influence of the right-left struggle in France on her external policies and with the effect of the anti-sanctionist tendency of French public opinion. His description of Italian attempts to subvert various regions in Ethiopia largely ignores the Somali component. And finally, his statement that Emperor Haile Selassie proposed that Britain take over Ethiopia as a protectorate needs much more evidence than a single private conversation with an English authority.

The author's scholarship is excellent, but my basic complaint is that Baer, like most American and English writers on the subject, bases his analysis on assumptions which are, if not false, then at least faulty or incomplete. It is just too much to imply that sanctions failed to work because Simon did X or Vanstittart did Y or Laval did Z. The ineffectiveness of sanctions only reflected the real nature of politics. But even if one viewed the League as a possible alternative to power politics, then its demise came not with the rape of Ethiopia but with Vilna, Corfu, Manchuria, and the League's failure to deal

with the profound problems of international economics. That Article 16—unlike Chapter VII of the United Nations' Charter—left it to the individual state to determine its own action was a clear illustration of the great powers' unwillingness to be restrained.

This caveat is not intended to correct assumptions per se: it is intended only to raise questions of analysis. If we do not assume that the League could have imposed collective sanctions and if we do not assume that "morality" and "public opinion" could have affected the main interest and policy objectives of large states, how then do we appraise such actors as Simon and Hoare. Were they agents of Mephistopheles? Would Churchill himself have acted differently were he in power? Suppose we assume that the League's very existence encouraged rather than restrained the Fascist regime, then how do we appraise the *dramatis personae*? Of course we can always keep our old assumptions and always refer back to Wolfers, Toynbee, Walters, Zimmern, and others—content that the essentials are well established and that all we need to do in writing a new work is to vary or expand the same theme.

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AMERICAN GOVERNMENT AND HISTORY

HERBERT J. MULLER. *Adlai Stevenson: A Study in Values*. Pp. xiii, 338. New York: Harper & Row, 1967. \$6.95.

Herbert J. Muller has written an evocative book, *Adlai Stevenson: A Study in Values*, which brings the public Stevenson to life and gives the reader poignant reminders of the way in which Adlai Stevenson for almost three decades talked sense to the people of America and the world.

Muller's book is not, nor does it pretend to be, a biography, yet it does outline Stevenson's family background, the formative years, and the development of the

public figure. It must have taken courage to tackle Stevenson and his speeches as a subject for study, for any writer's prose must suffer by comparison when placed alongside that of Adlai Stevenson. Yet the book is excellent. It is filled with quotations from Stevenson, quotations which show his maturing as a spokesman for the best of America.

Though Muller seems to half-subscribe to the oft-repeated charge that Stevenson was unable to make decisions, the record, as compiled here, shows that Stevenson, as Governor of Illinois and later, made decisions and stuck with them. After the soul-searching, he knew what he ought to do and did it.

A man emerges from the pages of Muller's book. This man was independent, inquiring, and intensely interested in humanity and its problems and progress. This survey of Stevenson's career re-enforces our knowledge that he had tremendous faith in the people of America. Muller quotes: "To view our present and our future with . . . sickly anxiety is to ignore the lesson and the achievements of our past. For the plain truth is that we here in America have written the greatest success story in human history." This faith in the possibilities of Americans to achieve and to judge rightly is repeated in various ways in statement after statement. It is, in fact, a major theme of the book.

Stevenson also had faith in politicians—some of them, anyway—as is indicated in his answer to questionings of political integrity: "You may argue that these qualities of dedication, of selflessness, are pretty remote from the realities of politics. . . . no democratic system can survive without at least a large and active leaven of citizens in whom dedication and selflessness . . . are the fundamental principles of their activity in the public sphere."

I believe that this was the standard which Adlai Stevenson set for himself. This book underscores this dedication. It does more; it demonstrates that, despite defeats, the Stevenson influence has been a real and powerful one, especially during the Kennedy and Johnson administrations. Stevenson was a success, not a failure.

He has been described as being opposed to our involvement in Vietnam, yet Muller quotes a *Look* magazine article, published in 1954, in which Stevenson wrote that "Southeast Asia's security hinges on the war in Indo-China." He argued that, if France gave up, the whole area would fall to the Communists.

There is much more in the book which I would like to discuss, for example, Stevenson's great performance as our Ambassador to the United Nations. Let me, instead, simply recommend this as a very worth-while reminder of the greatness of this American and the tradition which he represented. Those who knew Adlai Stevenson will be warmed by the reminders of his genius. Those who did not know him will be able to learn much about his philosophy and his accomplishments as a believer in America.

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TERRY SANFORD. *Storm over the States*. Pp. xvi, 218. New York: McGraw-Hill, 1967. \$5.95.

As befits the prestige of its author—a former Governor of North Carolina—this book has been well reviewed in newspapers and newsmagazines. It is a well-written, idealistic essay, abounding in aphorisms and folk wisdom of men of good will, and utilizing the parables and anecdotes that so often give style and distinction to the speeches and writings of Southern political leaders.

But as a sophisticated, realistic analysis of intergovernmental relations, it has a serious flaw—it virtually ignores politics and the political process, failing to consider the human motives and motivations, the conflicts and struggles, which characterize decision-making in the public sector.

Governor Sanford makes an enlightened plea for greater state responsibility in dealing with pressing public needs. Such pleas have been made before, but they have not stemmed the trend toward national centralization and the growth of federal programs. The problem lies not in well-written pleas

for grass-roots responsibility and action, but in an analysis of the interplay of political forces at state and local levels, which makes federal action inevitable. A concern for what state and local governments ought to do must somehow rest upon a diagnosis of what prevents the ought from being realized. It hardly helps to assert—as does Governor Sanford—that more effective state government is “when all is said and done, up to the people.”

In the past fifteen years, decisions of the United States Supreme Court in civil rights and reapportionment have done more to realign political forces at state and local levels than all the pleas of politicians or professors. The Founding Fathers, who authored the *Federalist Papers*, and who were aware of human motives and motivations, recognized the need for a superior power—the national government—to require states to do what they had the legal power but not the political will to do of their own accord. And, unquestionably, Governor Sanford also knows “how the machine really works,” but like many active politicians, he is unable to describe the struggles, the conflicts, the bargains, the negotiations, and the interests that affect action.

As some recent political and sociological studies on governmental decision-making, the power structure and how it operates, bureaucratic behavior, and the political process in general have suggested, politics deals with “who gets what, when, where and how,” and often with the legal and administrative prescriptions of the two Hoover Commissions and the Kestnbaum Commission, and most studies seeking state constitutional reform seem only slightly relevant. It is unfortunate that in his two-year retreat to Duke University, Governor Sanford apparently spent more time with the latter kinds of studies than with the former.

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LEONARD BAKER *Back to Back: The
Duel between FDR and the Supreme*

Court. Pp. 311. New York: The Macmillan Company, 1967. \$6.95.

Leonard Baker's account of Franklin D. Roosevelt's (FDR) plan to reform the Supreme Court is lively journalism by a Washington correspondent who has apparently made a hobby of his subject while covering the national political scene. He interviewed two of the major participants, former Senator Burton K. Wheeler and Benjamin V. Cohen, as well as several minor figures. He used the papers of President Roosevelt, Senators Carter Glass, Key Pittman, William E. Borah, and George Norris, Chief Justice Charles Evans Hughes, and William Allen White, plus the diaries—on microfilm—of Secretary of the Treasury Henry Morgenthau, Jr. and Senator Henry F. Ashurst.

Thirty years have now passed since that day in February, 1937, when FDR surprised Congress with his Court Plan, so Baker has a considerable advantage in perspective over contemporary accounts. Understandably, his book lacks the sense of excitement one still finds in its principal predecessor, *The 168 Days*, by Joseph Alsop and Turner Catledge, published in 1938 and long out-of-print. Unlike Alsop and Catledge, Baker has documentation, a bibliography, and an index. It is a pity that he could not reveal the identity of “a Republican prominent in the Court dispute” to whose papers he had access (p. 285). It is unfortunate that he has not been able to restrain himself from subjecting us to such sentences as “Lyndon Johnson was a political switch-hitter who kept his eye always on the main chance” (p. 187). For the most part, however, Baker's sources are named, and his lapses into the really oppressive cliché are only occasional.

Baker does not add greatly to the sum of our knowledge of the Court fight. He puts more faith than some of us would in the old-age memories of participants. I think that he misinterprets Senator Ashurst's position as one of a sturdy opponent instead of a rather light-hearted supporter of the plan. And Baker missed one of my favorite Ashurstisms, the Senator's concession at the end that his head was “bowed but unbloodied.” Baker tells us that more

people knew about the plan in advance than has usually been assumed; I think that a thorough, scholarly study would indicate that a very large number of people were involved.

But the important thing is that Baker has given us a vigorous, readable, and, above all, politically sophisticated account of the struggle. He believes that the plan did not pass Congress because the Supreme Court had begun to bow to public opinion, because the opposition was shrewdly led, and because the interest groups in the grand coalition of 1936 did not really care very much about its adoption. Baker feels that the defeat of the plan ushered in a quarter-century of "hiatus" and that this was "perhaps a good thing" (p. 284). Although he says that "the New Deal came to an end" (p. 280), a few pages later he concludes that in the 1960's "the American people proceeded with the philosophy of the New Deal" (p. 284).

The full-scale scholarly study of the great Court battle still remains to be written. But such a book will take years of the most careful work by a historian with remarkable energy and critical acumen. Meanwhile, we have Baker's book—enjoyable, informative, and occasionally inconsistent.

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ALAN F. WESTIN. *Privacy and Freedoms*. Pp. xvi. New York: Atheneum, 1967. \$10.00.

Professor Westin has written a comprehensive account of a study he conducted for a Special Committee on Science and Law established by the Association of the Bar of the City of New York which was financed by the Carnegie Corporation of New York.

The book falls into four parts: a study of the nature of privacy and the intrusions into it; a description of the techniques of intrusion, electric and psychological; and public reaction to intrusions and suggested remedies. The coverage is so comprehensive that there should be no need for any

other work of this kind in the calculable future

While there are fascinating aspects to many parts of the development, it is the analysis of remedies that to one reader, at least, is the most interesting and suggestive—if, indeed, not also controversial. Professor Westin heads his last chapter "Restoring the Balance of Privacy in America." It might well have been called "Needed Restrictions on Intrusion of Privacy," for our author believes that widespread restrictions are in order.

Professor Westin opposes any attempt to accomplish his objectives by amendment to the United States Constitution, believing that the task of adjustment can better be left to legislation and judicial decision. Any legislation should deal with psychological as well as electronic surveillance, should control what he calls "data surveillance," that is, the accumulation of information through dossiers and computers. He recognizes that the public interest may require surveillance in certain areas, such as kidnapping and national security, but recommends stringent restrictions otherwise. He is, however, against permitting eavesdropping with the consent of only one party to a conversation and insists that, in general, nothing can be done without the free consent of all persons involved. He predicted that the Supreme Court would soon "overrule the *Olmstead v. Goldman* doctrines and declare that protection of privacy against unreasonable surveillance and improper disclosure by federal or state authorities is a basic constitutional right." And soon after his book appeared, the United States Supreme Court did just that in *Katz v. United States*, decided December 18, 1967.

There is also room for self-imposed restraints by private organizations and professional bodies. In this context, Professor Westin gives as examples the action of Columbia University in refusing to permit government agents to obtain a student's academic record without his consent, and studies undertaken by the American Psychological Association and similar groups.

He concludes with the following eloquent statement: "The setting—the marvels

of microminiaturization and circuitry, chemical synthesis and projective psychiatry—is new. But the choices are as old as man's history on the planet. Will the tools be used for man's liberation or his subjugation? In the density, complexity, and tight interrelation of twentieth-century life, can we preserve the opportunities for privacy without which our whole system of civil liberties may become formalistic ritual? Science and privacy: together they constitute twin conditions of freedom in the twentieth century."

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THOMAS J. MCCORMICK. *China Market: America's Quest for Informal Empire, 1893-1901*. Pp. 241. Chicago: Quadrangle Books, 1967. \$6.50

This period, 1893-1901, was the era of the Sino-Japanese War (1894-95), carving up the Chinese "melon," American acquisition of the Philippines and Hawaii (1898), the Boxer Rebellion (1900), and especially the genesis of the American "open door" policy. Dr. McCormick has drawn heavily on State Department records, papers of numerous leading personalities, such as John Hay and Presidents Cleveland and McKinley, and articles in many leading industrial and trade publications. He has not drawn on any diplomatic records of other governments.

The author emphasizes that the industrial nations of that era felt that they must develop overseas markets to absorb overproduction from their factories. China with its "teeming millions," "one third of the human race," seemed a natural outlet. While half a dozen nations sought to stake out a "sphere of interest" for themselves—Germany in Shantung, Russia in Manchuria, and France in the Southeast—the United States urged an "open door" policy, believing that in open competition her industrialists could outsell all others. Once the United States acquired the Philippines, Guam, and Hawaii in 1898, this policy crystallized rapidly. But, says McCormick, ours was the "imperialism of anti-imperialism" as we sought to parlay the Pacific

Ocean fruits of the Spanish-American War into something bigger. Two factors aided Secretary of State John Hay. One was the balance of power between the Russo-French entente and the Anglo-Japanese bloc, and the other was the growing European fear of a general war. However, Hay still had to maneuver for months to obtain even a seeming general agreement in favor of the "open door" policy. Russia, the only nation with the weapon of variable rail rates, was often the most difficult obstacle. At one time President McKinley leaned toward staking out a "sphere of interest" for America. Incidentally, our government mercantilistically opposed any thought of letting China industrialize herself.

Neither many persons then nor the author seemed aware of the meagerness of the China market. China's poverty has always been beyond Western imagination. This reviewer, living in relatively prosperous Shanghai in 1929, saw Chinese cigarettes selling at one cent a pack with only the moderately well-to-do workers able to afford them. China's total foreign trade in 1902 was only \$400 million with the United States having a tenth. Belgium's total foreign trade that same year was twice as large and Holland's four times as large. Our trade with them was respectively two and four times the value of our China trade.

Dr. McCormick's scholarly study adds many enlightening details to an old story and places appropriate emphasis on America's economic motivations.

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HERBERT KLEIN. *Slavery in the Americas: A Comparative Study of Virginia and Cuba*. Pp. xi, 270. Chicago: University of Chicago Press, 1967. \$6.95.

Herbert Klein's study is one of the most interesting attempts that has been made in comparative history. The study can not be judged as a definitive study, but rather as a suggestive one. It is, therefore, open to harsh criticism. Nor is the study origi-

inal in concept or in structure. Klein, following the pioneering efforts of Frank Tannenbaum and Stanley Elkins, makes many of their errors. Undoubtedly, many are annoyed by the social science jargon, which at times is neither relevant nor helpful in understanding the material presented.

Despite its defects, though, the study is remarkably informative. Klein has synthesized materials of all sorts, spreading far out from the legal sources of Tannenbaum and Elkins, though he verifies their thesis.

The study is organized into five parts and a conclusion. The first part is concerned with the establishment of imperial control in Cuba and in Virginia. The second part deals with the legal structures. The third part, the most interesting of the book, is a comparative analysis of Catholicism and Anglicanism in relation to the Black people. In Part Four, Mr. Klein outlines the differences in economic structures in the two societies. In the final part, he discusses the freedman in the two cultures. The last part is crucial to Mr. Klein's thesis because he sees the freedman's position as an "indicator of assimilation." The author's excellent use of secondary sources makes the book a rich reference work, though, unfortunately, there is no bibliography.

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RICHARD HARRISON SHRYOCK. *Medical Licensing in America, 1650-1965*. Pp. xi, 124. Baltimore: Johns Hopkins Press, 1967. \$5.00.

As the nineteenth century drew to a close in the United States, a physician observed that his profession still contained "a vast number of incompetents, large numbers of moral degenerates, crowds of pure tradesmen," and so on. Yet, as early as 1649, the good citizens of the Province of Massachusetts passed a law designed to regulate the activities of "Chirurgeons, Midwives, Physitians or others" who were

"employed at any time about the bodye of men, women or children, for preservation of life, or health" The wisest and gravest of the lot were to control the rest by "advice and consent." Judging from our initial quote, there ensued two and a half centuries of mixed success. The struggle to protect the public and the medical profession through medical education and licensure is the thread on which these four essays hang. (If one is a bit tentative in so saying, it is because neither "medical licensing" nor "licensing" are indexed; rather, we find "medical schools," "A.M.A.," "National Board of Medical Examiners," and "State Examining Boards," and these are, indeed, the focus.)

How can one guarantee competence and integrity in the medical profession? It seems doubtful that the answer is by federal intervention and the controls accompanying state medicine. Rather in my view, they can be insured by (1) guaranteeing somehow that high-class students choose a premedical education and (2) that they receive a quality education; by (3) screening those seeking admission to medical school on motivation, intelligence, and character; by (4) offering up-to-date and appropriate (meaning?) medical coursework and training; by (5) practical steps to ameliorate the mental and financial stress of extended education under great pressures; by (6) constant interdisciplinary, lay, and professional surveillance of medical school curricula and procedures; by (7) minimizing reliance on standardized or "objective" tests as devices for allegedly screening those who by completion of their internships have satisfied professional persons who knew them well; and by (8) a realistic, regular ten-year reappraisal of growth or dry rot.

Professor Shryock meanders pleasantly through these short chapters without giving us a statement like the above; certainly his opinions would carry weight. Still, he has offered useful historical information, and all will trust the integrity of these pages from the dean of our medical historians.

After even a casual survey of current writing about medical practice in America,

parenthetically, one is irritated—but not by this urbane account—at the continuing assessments of so screened and controlled a profession—medicine—by members of such unregulated professions as college teaching and journalism. On balance, this reviewer absolutely agrees with this noted emeritus Johns Hopkins teacher when he finally concludes that “the American [medical] profession may take some pride, in looking back over the last three centuries, in the approach toward perfection which has actually been attained.” Let it be clearly understood by this endorsement that I am more than wearied by the present campaign of some “intellectuals” to establish that the greatest profession America has produced needs at this crucial era to be spied upon, badgered, regulated, and scorned by those who at the same time insist absolutely on their freedom to study, teach, write, and even behave exactly as they please—and the public be damned. Thank goodness Professor Shryock, a senior scholar to whom we are all in debt, is not of that ilk.

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FREDERICK B. PIKE. *The Modern History of Peru*. Pp. xix, 386. New York: Frederick A. Praeger, 1967. \$7 50.

The Modern History of Peru is the first volume in Praeger's new “Histories of Latin America” series, which promises to fill a real need for up-to-date broad-scale historical accounts of the Latin-American countries.

Frederick B. Pike, Professor of Latin-American History at the University of Pennsylvania, is well known for his *Chile and the United States, 1880–1962*. After a brief analysis of the geographic, ethnic, and political heritage of Peru, he begins his account with the immediate preliminaries to the war for independence. In the next four chapters, he treats the era of the nineteenth-century *caudillos* through the War of the Pacific and its aftermath, while, in the last four chapters, he deals with the twentieth century. In the present

century, the author feels that the country has grown, slowly but rather steadily, toward stability and moderate, middle-class rule.

Pike emphasizes the failure of all violent efforts toward sweeping changes, and he believes that it has been the moderate leaders of the earlier oligarchies and the current administration that have exerted the more important and lasting influence on Peru's development.

The military *caudillos* before 1850 are viewed as combinations of the rogue and the hero, with the balance on the good side, while lack of progress can be blamed more on plotting civilian aristocrats than on the military; and he strikes a similar balance of criticism and approval of the role of the two groups in the unfortunate War of the Pacific.

The beginnings of modernization came in the period 1900–1919. Building on the foundations of iconoclasm toward the old regime, laid by Manuel González Prada in the 1890's, a considerable number of intellectuals turned their attention to social problems and devised reform programs between then and 1920.

Much of the history of Peru after the late 1920's revolves around the rising tide of *Aprismo*—and the determined opposition to it by the military, the Church hierarchy, and the elite-ruling groups in general. The author devotes most of the last two chapters to the rise and apparent current decline of *Aprismo*.

Pike's highly critical assessment of the Alianza Popular Revolucionaria Americana (APRA) will probably spark rejoinders from earlier analysts of that movement in the United States. But his views will come as no surprise to readers of his long article on that topic in *Inter-American Economic Affairs* (Autumn 1964). His views on the Belaunde movement and administration are very favorable.

Throughout the work, the author illustrates the polarized extremes of Peru's thoughts on the role of the Indian in the national life. Some scholars will probably wish that this important treatise had devoted more space to the recent period. The book includes an important biblio-

graphical essay, extensive notes, maps, and an adequate index.

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SERAFINO ROMUALDI. *Presidents and Peons: Recollections of a Labor Ambassador in Latin America*. Pp. xvi, 524. New York: Funk & Wagnalls, 1967. \$8.95.

During the twenty years following World War II, the late Serafino Romualdi was one of the most influential figures in inter-American relations. Although his name seldom turned up in the general press of this country, and only infrequently in that of the Latin-American nations, he made a major contribution towards bringing about a better relationship between the two parts of the Hemisphere.

For more than fifteen years, Romualdi was the Latin-American Representative of the American Federation of Labor, and after 1955 of the American Federation of Labor and Congress of Industrial Organization (AFL-CIO). For four years thereafter he was the Executive Director of the American Institute for Free Labor Development. During all of this period, he was, as the subtitle of his book says "a Labor Ambassador in Latin America."

Romualdi was a firm believer in political democracy. In spite of his earlier career as a Socialist, both in Italy and in the United States, he was also a believer in the "free enterprise system" as it had developed in the United States since the New Deal. In his ambassadorial role he felt that it was "his mission" to try to strengthen both of these institutions, and he was profoundly convinced that a strong democratic labor movement was fundamental to both democratic government and healthy free enterprise.

The twenty-year "mission" of "Ambassador" Romualdi had many facets. When he first began it, his most urgent job was to establish a rallying point for nontotalitarian trade-union groups in Latin America. In carrying out this work, in which he was notably successful, he brought down upon himself the ire of both the Commu-

nists and the Peronistas. The results of this part of his activities were first the Confederacion Interamericana de Trabajadores (CIT), established in January, 1948, and then its successor the Organizacion Interamericana de Trabajadores (ORIT), which succeeded the CIT in January, 1951, and functioned as the American regional organization of the International Confederation of Free Trade Unions. Throughout most of his career, Romualdi served as an official of the CIT and the ORIT.

However, his activities went far beyond this kind of international organizational job. He tried to establish close relationships between his North American organization and the various national trade-union groups in the Latin-American countries. He not only visited them frequently, but helped in organizational campaigns, provided financial assistance for key strikes, intervened frequently between United States home-office firms and his Latin-American labor colleagues who were having difficulties.

Romualdi also sought to strengthen the leadership of the local and national labor groups in the Latin-American countries. To this end, he early began a program, with co-operation from the AFL, the University of Puerto Rico, the ORIT, and the United States aid program for bringing Latin-American labor leaders to Puerto Rico and the United States for intensive training courses. This program came to flower on a more ambitious level after 1961 with the establishment of the American Institute for Free Labor Development, which established training schools in most of the Latin-American countries, as well as a kind of "university" in Washington, D.C. for selected graduates of the various Latin-American national schools.

There is little question that these training activities have done much to strengthen the Latin-American trade-union movements. They have not only helped them to be better able to engage in collective bargaining, but have also trained leaders in more efficient methods of conducting union affairs and have strengthened their ability to resist penetration by totalitarian ideologists.

All of these aspects of Serafino Romualdi's career are dealt with in the fasci-

nating book under review. This book is both an autobiographical recounting of Romualdi's own activities and a study of the trade-union and political situations in most of the countries to which his activities extended. Aside from chapters of organized labor in various parts of the hemisphere, Romualdi has special sections devoted to some of the leading political figures with whom he dealt during his twenty years of Latin-American activity, notably Victor Raul Haya de la Torre and Romulo Betancourt. This volume is undoubtedly destined to become a major source book for those interested in the political and economic evolution of Latin America in the post-World War II decades.

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SOCIOLOGY

G. WILLIAM DOMHOFF. *Who Rules America?* Pp 184. Englewood Cliffs, N.J.: Prentice-Hall, 1967. \$4.95.

Since the late C. Wright Mills published *The Power Elite* in 1956, unceasing endeavor has been made by one school of sociologists to identify and to define the characteristics of a class, elite, or group that assumedly governs, or "rules," America. Professor Domhoff's volume is the ablest attempt yet made. He is not, as was C. Wright Mills, an angry propagandist, attempting to define a class he wants to destroy. He is not a neo-Marxist seeking to describe a selfish oligarchy whose liquidation he considers essential to social justice. His closing discussion—"Is the American Upper Class a Governing Class?" social, upper, or ruling—is immensely thoughtful and interesting. Unhappily his endeavor fails because the underlying assumption cannot be supported by Domhoff any more than it was by Mills. Evidence is totally lacking that, as such, any elite exercises power or that any "class" governs or rules—lacking, because the fact does not exist.

Defining "rulers" as men listed in the *Social Register*, members of gentlemen's

clubs, Ivy League graduates, and top wealthholders and income recipients, Domhoff discovers with meticulous research that most American corporation executives, foundation and university trustees, high officers of the military establishment, and officers of state and local governments fall within his description. From this he concludes that "the income, wealth, status and institutional leadership or what [Professor E.D.] Baltzell calls the 'American business aristocracy' are more than sufficient to earn it the designation 'governing class.'" Regrettably, despite Domhoff's lucidly written and excellently documented pages, the result falls to pieces because its basic assumption is not only unproved but invalid.

Any capable analyst can describe the qualifications and recognitions likely to be possessed by the individuals who presently "govern," "rule," or hold power, public or private, in America's myriad institutions. He can construct from them a statistical group. I think Domhoff has done better than any, though I have doubts about including the "Social Register" and "gentlemen's clubs" among the tests. But all this proves only that the statistical group falling within the description will comprise—among many nonpowerholders—the relatively few individual institutional powerholders at the time. (Many, by the way, got into the described classes, groups, or elites after, not before, they acquired power positions.) Factually, even though most powerholders fall within the described group, the described "class," "elite," "establishment," or "governing group"—as such—does not have power, does not govern, and does not rule.

Were all the power held by each of the component individuals in all their manifold but disparate positions aggregated, put together, united by a common ideology, and organized into or co-ordinated by a functioning institution—itself an impossible task—they could perhaps delegate power to and devolve it on specified members who might then "govern" or "rule." But nothing of the kind has happened—or, so far as anyone can now see, is likely to happen. With equal logic, one might assert that the men gathered as spectators of a Har-

vard-Yale or Army-Navy football game—most of whom probably fall into most elite descriptions, including Domhoff's—"rule" or "govern" America from the Yale Bowl or Franklin Field. They do not

The reason goes deeper than the "pluralism" set out by E. D. Baltzell in his *The Protestant Establishment*. To govern, to rule, or to exercise power at all requires an institution or co-ordinated institutions, organized under and held together by an idea-system, vesting power in and allocating it among stated individuals, for tacitly agreed or overtly stated purposes. Otherwise, I find only a collection of individuals, each exercising a fragment of power in disparate institutions, be they churches, universities, corporations, labor unions, or government offices. Their decisions in these disparate capacities do not reflect the will, the desire, still less the compulsive power of the statistically determined "class" or "establishment." As an ironic footnote, I find myself in Domhoff's book as one of the "rulers." While I held a sub-Cabinet office in the Roosevelt Administration, there was a degree of justification. At present, it would stump the methodology of any "leadership sociologist" to discover any "rulership" beyond my private office.

C. Wright Mills launched a persuasive though fallacious piece of propaganda. A good many sociologists fell for it. Domhoff's detachment and scholarly abilities are so great that this reviewer hopes he rapidly escapes into more profitable lines of research.

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ARTHUR NIEDERHOFFER. *Behind the Shield: The Police in Urban Society*. Pp. vi, 253. Garden City, N.Y.: Doubleday, 1967. \$5.95.

This book about the urban police is based partly on the author's long experience in the New York Police Department (NYPD) and partly on a questionnaire study of police cynicism conducted there.

Neither of the two main sources of information is as systematic or as well developed as is desirable. Moreover, the attempt to combine information from the

two sources and perspectives contributes to the helter-skelter quality of the book. This quality is further enhanced by the author's tendency to introduce and then only partially exploit a variety of themes

One of these is the problem of police professionalization and the conflicts which the new ideas and new men engender. Anyone interested in the processes of change in American municipal police departments will find many useful insights and observations here. He will not find any really basic perspective on the meaning of professionalization either as a problem in the sociology of organizational change or as a contribution to a general understanding of the gradual and sometimes painful transformation of the police

Part of the author's difficulty on this score arises from the very source of much of the book's value—it's focus on the New York department. New York is not the United States; the New York Police Department is not the American municipal police. Particularly significant is the fact that the NYPD has for many years combined an "advanced" Academy with an "archaic" structure. It is this contrast that occupies much of the author's attention, as he chooses to frame the study of professionalism, as well as the study of cynicism, largely as a problem in the fate of "professionally" indoctrinated recruits as they confront the realities of the job and the unreconstructed old-timers who dominate work-culture in the precincts.

Within this context, considerable time is devoted to a rather unsatisfactory discussion of authoritarianism. This discussion is unsatisfactory even on simple technical grounds. Technically, no adequate measure of authoritarianism is employed, and the author makes do with his measure of cynicism. The treatment is full of inductive leaps of some courage but doubtful reliability. Moreover, the discussion of authoritarianism simply peters out rather than concludes.

The main theme of the book is the study of police cynicism. This theme is better handled and hits squarely on a matter of central significance. Policing is one of the moral occupations, and the fate of moral

idealism, as a consequence of organizational experience, is important for both social science and social policy. Niederhoffer is correct in insisting that cynicism among police, where it involves abandonment of the core ideals of the job, is socially a serious matter. This image of a moral core to police work is reflected in the observations of others. Thus, this reviewer and Albert J. Reiss, Jr. refer to the significance of occupational honor ("Command, Control and Charisma: Reflections on Police Bureaucracy," *American Journal of Sociology*, Vol. 72, July 1966, pp. 68-76). Jerome H. Skolnick refers to similar concerns when discussing police commitment to norms of legality (*Justice without Trial: Law Enforcement in Democratic Society*, 1966).

The cynicism questionnaire and the results of its use are presented in detail in an appendix, which is in many ways the most useful and thought-provoking part of the book. The detailed presentation of results enables the reader to speculate about causes and consequences. As the author partly recognized, at least two quite different "kinds" of cynicism are included—cynicism about basic police ideals of service, protection, and legality and cynicism about personal career prospects and the way the department is run.

An important next step would be to relate the two more fruitfully than is done here. The basic question after all is what are the organizational conditions under which the legal and service ideals of police work prosper?

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THEODORE M. MILLS. *The Sociology of Small Groups*. Pp. viii, 136. Englewood Cliffs, N.J.: Prentice-Hall, 1967. \$4.50

On the next to last page of his book, Mills discusses friendship. "The critical factor between friends," he says, "is the placing of a high value upon respect for each other as persons" (p. 129). Through his experience with "self-analytic" training groups over the past ten years or so, he has come to respect the members of his

classroom groups so much that he no longer feels comfortable in doing traditional "small group" experiments upon them. Whereas in the usual laboratory groups the observer is an outsider wanting inside information without becoming an insider, in the "self-analytic" groups, the group boundaries are altered and redrawn. The outside observer's function is incorporated into the group. The background for much of what Mills has to say in this book comes from his experience in groups of this type.

Although he was among the best-known figures in the experimental small-groups field when this type of study first became popular in the early 1950's, he rejects the data drawn from the majority of the laboratory studies of groups as being of little value compared with the insights derived from the experience of leaders in training or therapy groups.

After a short introductory history of research on small groups, which is very well done, and chapters on models of group functioning and on methods of observation, the remaining eight chapters elaborate his scheme for the analysis of group process. To understand interaction, he considers three system levels: personality, group, and context. Each of these systems has further subdivisions. At the group level, for example, six role systems are required for the fully functioning group: interaction, group-emotion, normative, technical, executive, and intergroup executive. Underlying these and others concepts is a theory of group development, which is based on an analysis of five reasons for forming groups: (1) for immediate gratification, (2) for sustaining conditions for gratification, (3) for pursuing a collective goal, (4) for group self-determination, and (5) for growth. The effects of these reasons are cumulative so that a group must first meet the needs at the lower levels before it can operate at a higher level.

This relatively small book, 136 pages, which is part of the "Foundations of Modern Sociology Series," on the one hand, should be most useful for those who are members or teachers of "self-analytic"

groups, which are conducted in the Harvard tradition. On the other hand, those who prefer a more traditional discussion of the research literature on small groups or an introduction to the "classic" studies in the field will have to turn to other sources.

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WALTER BUCKLEY *Sociology and Modern Systems Theory*. Pp. xii, 227. Englewood Cliffs, N.J. Prentice-Hall, 1967. \$5.95.

In his introduction, the author tells us that the purpose of this book is to bring to the attention of a larger number of social scientists the applicability of the principles and methods of "modern systems research" for the study of human systems. With unconcealed huzza, the author opens by attacking extant, and heretofore thoroughly whipped, social systems theories. Included for criticism are the mechanical, organic, and process models, with special attention given to the efforts of Parsons and Homans. Every criticism of consequence ever launched against these models is marshalled once again, which makes the chapter must reading for hard-pressed graduate students in search of instant wisdom.

There follows an elaboration of systems theory as it emerges from cybernetics and information theory. The sociocultural system is described as open, tending to the negentropic, tension-producing, containing feedback mechanisms, and the like. On the one hand, Nagel's resolution of the problem of functionalism, by the introduction of the concept of feedback control, is discussed at great length, but somewhat more obtusely than the original. On the other hand, the discussion of the contribution of information theory to the study of human systems suffers from oversimplification. In fact, his discussion is inadequate for the audience that Buckley wishes to reach. Nonetheless, he introduces the concepts of variety, mapping, and so forth and links them to his core concept: morphogenesis.

Professor Buckley's ultimate purpose is to attach the structuralist and consensus

models of social organization by a very careful examination of the social processes that lead to the development and change of social orders. In the middle part of his book, he discusses in detail and with considerable insight and theoretical pay-off a number of studies and theoretical statements by various social scientists on morphogenetic processes—proof perhaps that social scientists are more aware of "modern systems theory" than the author was willing to admit in the beginning of the book. What emerges is a very sophisticated, complex representation of human systems as adaptive mechanisms in which the larger system sets some constraints on action, but within which "structure" is being created, altered, and destroyed by an array of informal processes. Sophisticated as it is, it is hardly a novel view of organization.

The book closes with an excellent discussion of the concepts of power, influence, and authority. The discussion of this last concept is particularly useful since it destroys the most prevalent definition of authority as "legitimated power."

My opinions of this book are obviously mixed. Buckley has not written a book that will, as he intended, inform his colleagues. Neither does he talk to beginners in the field of complex organization, because his use of jargon rivals that of some of the more obtuse creators of sociological theory. However, he knows his subject, and he has presented an attractive conceptual framework that integrates cybernetic and information-theory concepts with an open-system theory view of human organization. I wish he had begun his book in the middle and added some of his own theoretical extensions of the ideas he presented there.

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LEWIS A. COSER. *Continuities in the Study of Social Conflict*. Pp. x, 272. New York: Free Press, 1967. \$7.95.

This book is a collection of twelve essays and papers done by the author over the last fifteen years. All but two have been previously published; they have not, however,

been easily accessible. The availability of a unified corpus of Coser's fugitive work provides a demonstration that if European sociology has, in Dahrendorf, a major contributor in the Marxian conflict tradition (refined)—American sociology has, in Coser, a major contributor in the tradition of Simmel.

There are three types of papers. Half are logical extensions and refinements of Coser's excellent exegetic treatment of Simmel (*The Functions of Social Conflict*, 1954), with new insights generated out of an examination of the intra- and inter-societal conflicts of the contemporary world—conflicts greater in complexity and magnitude than those upon which Simmel based his superb anecdotal analysis. In two papers—on Durkheim and on Marx—Coser attempts to correct popular misconceptions about the theoretical perspectives of these sociologists and to indicate ways in which more correct interpretations can contribute to theoretical and practical understanding of contemporary phenomena of social conflict and individual deviance. In the concluding four papers—three of them republished from *Dissent*—the author examines issues of conflict theory in the study of current politics. Coser has written a brief introductory note for each paper, identifying its current theoretical and practical applicability.

The intellectual descendants of Durkheim, Marx, and Weber have been inspired to undertake major historical and sociological empirical studies, testing the insights (hypotheses) of the "masters." With the exception of the work of small-groups researchers, who have focused on the testing of only a small—though by no means insignificant—sector of Simmel's social conflict theory, systematic testing of Simmel has been rare, indeed. Coser's amplifications of Simmel tend to be anecdotal rather than systematic; on occasion, his illustrations are even of questionable accuracy. His overviews of world events are consonant with generally available information—his generalizations seem to go beyond the events. Similarly, in microanalysis his examination of interrelationships is highly suggestive and even convincing—until he

gives illustrations which turn out to be, at best, oversimplified—as in his discussion of social participation patterns in riot areas. Questions of the applicability of theoretical notions of conflict across levels of conflict are raised—but never answered. The book is loaded with interesting ideas—but the evidential base, like that in Simmel's own writing—seems weak.

It is unfortunate that Coser did not elaborate upon his excellent but truncated review of current developments in conflict theory. Although the cover design is excellent, the book is marred somewhat by an excessive number of typographical errors. Whatever faults the book may have, however, it is essential reading for any student of conflict phenomena.

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GARY T. MARX *Protestant Prejudice: A Study of Belief in the Black Community*. Pp xxviii, 228. New York: Harper & Row, 1967. \$8.95.

The current distortion in the mass media of what is going on in the Negro community makes this systematic interview survey—along with two surveys published by *Newsweek* magazine—doubly welcome. Sponsored by the Anti-Defamation League because of a special interest in Negro attitudes toward Jews, the study is excellent in its design—although there could be some criticism of the sample—superb in its analysis and write-up, and fairly responsible in its scholarship.

The main findings of the survey are the following: (1) Only a third of the Negro adult population was consistently militant in outlook. (2) Slightly fewer were strongly antiwhite, but those who were partially antiwhite brought the antiwhite sentiment up to three-fourths of the Negro population. (3) To the small degree that Negroes distinguish between Jewish and non-Jewish, they prefer Jews. The minority preferring Jews do so, because they recognize their special contribution to the civil rights movement. The minority especially antagonistic to Jews are so because of alleged

economic characteristics of Jews; the Negroes show none of the power stereotypes of Jews held by white anti-Semites. (4) Civil rights militancy was negatively related to antiwhite and anti-Jewish feelings. That is, there are two types of militants in the Negro community—a larger group of civil rights integrationists and a small group of self-segregationists. Only the former get considerable support and popularity in the Negro community at large. (5) In spite of its importance to protest in some respects, religiosity is an important factor inhibiting militancy. The least privileged Negroes, who are most likely to profit from social change, were the least likely to be militant.

There is one respect in which I believe a good number in the Negro community may have changed since the survey was conducted in 1964: they may now find it expedient to favor violence as a tactic, as it pays off in rewards from the whites. But otherwise, most Negroes have not changed much. It is only the white mass media that has created a false public image of the Negro: (1) by giving "national leadership" to extremists like Carmichael, Browne, Muhammed, and others who, in fact, can claim only a few thousand followers; (2) by claiming that Negroes want self-segregation when the great majority want nothing more than the opportunity to integrate—actual integration is a personal matter and to gain middle-class privileges; and (3) by claiming that the factual position of Negroes is getting worse, when, in fact, it is steadily getting better in nearly every measurable respect. Any sensationalist, antiwhite or anti-Semite, will be given tremendous publicity by the mass media—even to the extent of encouraging riots—but a balanced report of what is going on in the Negro world—as in this book—will be all but ignored. Thus the book might awaken responsible citizens to recognize that their mass media are helping to create the violence in the streets, as well as some of the "crime wave" and the "revolutionary temper of the times."

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F RAY MARSHALL and VERNON M. BRIGGS, JR. *The Negro and Apprenticeship*. Pp x, 283. Baltimore: Johns Hopkins Press, 1967. \$8.00.

This study, made under the auspices of the Office of Manpower, Automation and Training in the early 1960's, brings new insights into the issue of the opportunities for Negro apprentices in the construction trade. A brief account of the research project, a summary of the character of apprenticeship programs, and the past role of Negroes in these programs are described in the early chapters. Although the casual reader may be tempted to skip these chapters, he would be ill advised to do so, since one of the authors' primary contentions is that part of the difficulties have arisen from a general failure to understand the purpose and character of apprenticeship programs. Some of the selectivity and subsequent hazing is pictured not as discrimination but as a normal part of the programs' operation.

The authors' main focus, however, is on discrimination within the programs and on efforts to overcome it. Their careful study of operating programs in eleven cities makes evident the frequent resistance of craft unions to any opening of their doors to Negroes. What is also uncovered is the depressing regularity of failure of government officials, civil rights groups, and Negroes themselves to fight effectively towards the removal of these barriers.

Certain patterns repeat themselves in virtually every city—the lack of public information about apprenticeships, the low caliber of referral services, which waver between complete inaction and recommending those obviously unsuitable, the proliferation of agencies (the reader is often exasperated by the need to remember the alphabetical abbreviations), the frequent disinterest of Negroes in the programs, and the high rate of dropouts when placements are made.

Uncovered also are important differences between cities, such as the tightness of the labor market, the opportunities for Negroes in the nonunion sector, the progress made—Washington D.C. and New York are leaders while Atlanta and Philadelphia have

made only token gains—and the varying approaches used.

Most of the recommendations and conclusions appear valid. Convincing statistics demonstrate that apprenticeship programs, even if completely open, will never provide an important channel for Negro employment, although the symbolic value of free access would be great. The authors' caution against too much reliance on legal sanctions as a means of effecting free entry is well taken, although I suspect that more action than they imply of this type will prove necessary. I regret that Chicago was not included among their survey cities, since later references to its programs are difficult to evaluate without background material.

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DONALD R. MATTHEWS and JAMES W. PROTHRO. *Negroes and the New Southern Politics*. Pp. xvi, 551. New York: Harcourt, Brace & World, 1966. \$12.50.

This volume is the long-awaited report of the extensive research by the authors on the political participation of Negro Southerners. Based at the University of North Carolina and financed by the Rockefeller Foundation, the authors employ a wide variety of data: opinion surveys of Negro and white Southerners, conducted by the Survey Research Center of the University of Michigan; a special investigation of Negro college students; and such aggregate measures as voting, census, and lynching data on every southern county with Negroes. Concrete detail is sought by attention to four contrasting southern communities.

The principal focus is on isolating the correlates of a "political participation scale." This measure records whether the respondent "talked politics," voted, campaigned, held office, or belonged to a political group. Since the study revolves around this critical dependent variable, it is unfortunate that it does not "scale" for Negro respondents. The generally unimaginative analysis throughout the volume

—save for interesting residual analyses in chapter six, the heavy-handed writing which is appropriate neither for professional nor popular readers, and the omission of relevant references from other disciplines (including work of the author's Chapel Hill colleague, H. M. Blalock—was disappointing.

Despite these serious weaknesses, *Negroes and the New Southern Politics* represents a major effort and uncovers a variety of findings. Not unexpectedly, Negro political participation is greatest among males, the middle-aged, and the middle class. The residual analysis reveals moderate relationships between Negro voter-registration rates by county and formal voter requirements, state factional systems, and the amount and type of racial organization; but only small relationships between partisan competition and racial violence. From these and similar results, Matthews and Prothro foresee increased political conflicts as Negro Southerners "reenter the political system in massive numbers." They predict that these conflicts will take place within the Democratic party rather than through the creation of a viable two-party system. Once racial issues recede into class issues, a southern two-party system resembling the national scene may finally evolve.

The most sophisticated and exciting feature of this work is the research design and the inclusion of both community and individual data. The data, generated by the design, are invaluable, but the routine analysis and pompous write-up do not do them justice. It is to be hoped that more informed and elegant analyses and reports on these data, by the authors and others, will be forthcoming in the future.

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CHARLES FLINT KELLOGG. *NAACP: A History of the National Association for the Advancement of Colored People*, Vol I: 1909-1920. Pp. xii, 332. Baltimore: Johns Hopkins Press, 1967. \$8.75.

Professor Charles Kellogg has written a scholarly, intelligent, well-organized, and readable book. This book, the first of two volumes, traces the National Association for the Advancement of Colored People (NAACP) from its inception in 1909 to its acceptance in 1920 by Negroes as the most effective organization for their advancement.

At the beginning of this century, Southern leaders were generally anti-Negro, and even Northern leaders were apathetic to Negro problems. In the South, the foremost Negro leader, Booker T. Washington, had compromised with the white South by stressing practical education for his race rather than political and social equality and civil rights. A young Southern Negro leader, W. E. B. Du Bois, opposed Washington. Du Bois was supported by Northern liberal leaders Oswald G. Villard and Moorfield Storey. These three founded the National Association for the Advancement of Colored People. While the efforts of Du Bois and Storey are not neglected, one is particularly impressed with the aggressive and sustained work of Villard in the early years of the NAACP.

Named in 1909, a Committee of Forty, which included a wide range of opinions on the Negro problem, became the nucleus of the permanent organization. In 1910 the leaders decided to attack disfranchisement of the Negro, and for national geographical reasons they enlarged the Committee to one hundred.

Throughout its early years, the NAACP was handicapped by internal rivalries and external opposition. Every Negro prominent in the organization wanted to be a prima donna, while the Negro masses were docile and uninterested. Negro leaders tended to be either conservative followers of Washington who emphasized only economic improvements or radical disciples of Du Bois who demanded total equality with whites. There was further rivalry between the white and Negro leaders within the organization. Obviously, many organizations and numerous peoples outside the NAACP were bitter enemies.

With the launching of *The Crisis*, the organization had a periodical through which to plead its causes. Its attitudes toward

the Negro problems were made clear with the naming of Du Bois as its editor. There were to be heated arguments between Du Bois and his editorial board, but usually the editor had his way.

The NAACP, once organized, expanded rapidly. Branches were founded in cities throughout the nation. By 1917 there were thirteen branches with 738 members in the South alone. But 1918 was the most expansive year, with 85 new branches and 34,712 new members. By the end of its first decade, the NAACP had 220 branches and over 56,000 members, and *The Crisis* had a circulation of over 100,000. Such an achievement would be difficult to match. By 1920 Southern members and branches exceeded those in the North.

Professor Kellogg writes at length about Woodrow Wilson's attitude towards the Negro. The extension of segregation and the replacing of Negroes with whites in government service angered the NAACP leaders; but from the Wilson administration they got only expressions of high idealism and fine promises for the Negro.

Although the NAACP opposed all kinds of segregation in American society, its most massive efforts were against lynching and mob violence. During World War I, the NAACP found many aspects of military life to criticize. In 1919, after the war, the NAACP seriously attacked the Negro labor problem. Here it was more successful in the North than in the South; Northern labor unions accepted Negroes to some extent but Southern unions not at all. Students of twentieth-century American history have long needed a scholarly history of the NAACP, and they will look forward to the final volume of this splendid work.

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JAY ANDERS HIGBEE. *Development and Administration of the New York State Law against Discrimination*. Pp. xxii, 396. University of Alabama Press, 1967. \$10.00.

No one ever investigated a state law as closely as Jay Anders Higbee. Professor Higbee originally proposed to trace the

circumstances under which the New York State Law against Discrimination was enacted and under which it was subsequently refined, to outline the law's original provisions and later amendments, to describe the organization and functions of the State Commission against Discrimination—later renamed the State Commission for Human Rights—and to provide a detailed account of its varied activities. It would be difficult if not impossible to imagine a more thorough pursuit of these objectives than Higbee's. He spent over a decade making a scholarly analysis of the Commission's activities, digesting a great variety of documents—such as the Commission's official orders and reports, relevant court decisions, and a great mass of secondary sources—observing the commission at work, and interviewing successive governors of New York State. These Herculean labors offer the publisher, the University of Alabama Press, ample justification for calling this volume the "first full administrative history of any State law."

The outstanding domestic problem in public life in the United States today is interracial relationships. The New York State Law against Discrimination occupies an important strategic position in the history of statesman-like efforts to deal with this problem: it was the nation's first state law prohibiting discrimination on the basis of race, color, creed, or national origin. It has stimulated efforts to reduce the incidence of discriminatory practices through comparable legislation in almost half of the remaining States of the Union, and it influenced the Federal Civil Rights Act of 1964. Indeed, that law specifically provides that complainants may be referred to State antidiscriminatory agencies, such as the pioneering New York State Commission for Human Rights.

These facts underscore the importance of a number of relevant questions in this area. What, for example, are the "politics" of the passage and administration of this act? How successful has it been in practice? Can "goodness" be legislated—that is, can the passage and administration of laws of this kind help influence or shape public opinion? And finally, how can the

act be improved? Unfortunately, under Professor Higbee's self-imposed limitations, he has eschewed giving full responses to these questions. Almost inevitably, his volume suggests partial answers, but they are only incidental products of his research, and they may be inferred from rather than explicitly found in the text.

As indicated above, the great strength of this book is its thorough coverage of the subject matter. The case-by-case survey of the conciliation activities and the litigation in which the commission was involved, both almost encyclopedic in scope, are particularly valuable. These sections alone suggest that this book should prove an indispensable reference work for all scholars or men and women professionally interested in working in this area of human relations.

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CHARLES Y. GLOCK and RODNEY STARK. *Christian Beliefs and Anti-Semitism*. Pp. xxi, 266. New York: Harper & Row, 1967. \$8.50.

CHARLES Y. GLOCK, GERTRUDE J. SELZNICK, and JOE L. SPAETH. *The Apathetic Majority: A Study Based on Public Responses to the Eichmann Trial*. Pp. xii, 222. New York: Harper & Row, 1967. \$6.95.

In these two volumes the authors report the first results of a five-year study of anti-Semitism in the United States, begun in 1961 under a grant from the Anti-Defamation League of B'nai B'rith and conducted by the Survey Research Center of the University of California. The first and more extensive effort, *Christian Beliefs and Anti-Semitism*, focuses on the relationship between the historic teachings of the Christian church and contemporary public attitudes towards Jews and is one of five projected large-scale inquiries. Its most general conclusion is that approximately a fourth of American anti-Semitism is

specifically attached to religious sources. The second book, *The Apathetic Majority*, focuses on public responses to the Eichmann trial and represents the additional concern of the California research group "to study on going events that [have] a special and immediate bearing on the problems of anti-Semitism." Its most general conclusion is that the trial "made no progress in overcoming public complacency or in routing out the residue of deep-seated anti-Semitic prejudice."

In both studies the authors employ the survey method: The analysis of Christian beliefs is based on questionnaires which were mailed to a large sample of northern California members of the gamut of Christian churches, in addition to comparative data, derived from interviews with a random sample of the national adult population conducted by the National Opinion Research Center. The analysis of reactions to the Eichmann trial involved interviews with a representative sample of approximately five hundred residents of Oakland, California. Both volumes also include pointed methodological appendices which describe in some detail certain aspects of the research process.

In their concern to exploit their data, the authors of *The Apathetic Majority* have managed to make an indifferent book out of what might have been a deathless article. From its pejorative title to its obvious conclusion, there is little in the way of discovery. Thus, we learn that while a majority of the respondents were aware of the trial, only minorities were knowledgeable about it; that knowledgeability was directly related to socioeconomic status—euphemistically conceptualized as "privilege" at one point and as "sophistication" at another—and inversely related to the degree of anti-Semitism. The authors are greatly disturbed over their finding that criticism of Israel's actions was positively related to "sophistication"—a reaction that stems from the ingenuous psychological assumption that people are monistic in their attitudes and behavior and a result that is largely a function of the structure of the interview. One can only heartily agree with the

authors' own observation (p. 106) that "the limits of good research practice have already been pushed to an extreme."

Christian Beliefs and Anti-Semitism is a much more considered effort. The analysis of the data is informed by a lucidly articulated model of the manner in which various basic dimensions of religion combine to produce not only "religious" but, ultimately, secular anti-Semitism. In the first place, sequential causal relationships are demonstrated to exist among "orthodoxy," "particularism," and belief in the negative role of the historic Jew in the crucifixion. This complex—summarized as "religious dogmatism"—when unmuted by religious libertarianism, is causally linked with secular anti-Semitism through the intervening variable of "religious hostility"—a negative religious image of the modern Jew. These elements are finally combined in a single Index of Religious Bigotry that is demonstrated to be causally related to the holding of secular anti-Semitic beliefs, feelings, and (hypothetical) actions. Of course, all of this is only to say that individuals who hold religious anti-Semitic beliefs are also highly apt to hold secular anti-Semitic beliefs.

While one cannot help but admire the conceptual and methodological ingenuity of the researchers in their analysis of the data, the practical implications of their findings are all too commonplace: teaching religious libertarianism and "a massive frontal attack on anti-Semitism" based on "Christian ethics." Moreover, in both studies there is evident a studied insensitivity to the factitious and normative nature of many of the results, a special risk of the use of the survey method in the investigation of such a complex social-psychological phenomenon as anti-Semitism.

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DAVID P. GARDNER. *The California Oath Controversy*. Pp. xi, 329. Berkeley and Los Angeles: University of California Press, 1967. \$6.50.

Twice during the past eighteen years, its internal turbulences have made the

University of California the world's most publicized institution of higher learning. The more recent of these tumults—the Berkeley Free Speech Movement which erupted in 1964—continues vigorously in new forms, and hopefully in time able scholars will deal as objectively and clearly with it as the author of the book under review reports the earlier 1949–1956 upheaval.

For the readers of *THE ANNALS*, the subject of the book need not, of course, be described: even the most specialized of academics have some knowledge of it. Relatively few know, however, that “the conflict” is “erroneously” called “the loyalty oath controversy,” (p. 246) an error which, alas, the publishers perpetuate in the book's title. By this, in his own words, Mr. Gardner means: “The California controversy was constituted of three dominant issues: a disclaimer affidavit disavowing current membership in the Communist party required of the University's faculty and staff as a condition of initial appointment or continued service; a regental policy unconditionally prohibiting appointment of members of the Communist party; and the locus of governing authority in the University with special reference to the selection and retention of faculty members” (p. 245).

Mr. Gardner again and again skirts the generalization that the first and second of these issues hinged on the third and that the core of the controversy lay in what, in today's terminology, would be sloganized as Faculty Power. Had he put the predominant point of view of the thirty-one nonsigners of the Regent's oath into broader perspective, he would have recalled such circumstances as, first, the Revolution of 1919–1920, an unsuccessful effort to reduce the governing power of both the Regents and the President; second, the tutelage of the outstanding leader among the nonsigners (Edward C. Tolman) by his senior in the Psychology Department (George M. Stratton) who had throughout his career been a vigorous opponent of the American system of academic government; and third, the counsel given the nonsigners and their friends throughout their troubles

by Alexander Meiklejohn, a resident of Berkeley, who had sought to undermine the power of laymen in academic government since his dismissal in 1923 from the presidency of Amherst College.

The inclusion of these and related considerations, even though briefly, would have helped the academic community to deal more effectively with such current problems as the campaign to unionize faculty members and the drives for Student Power. What Mr. Gardner has done, however, he has done well. All students of academic government and of academic freedom, one of its facets, are permanently in his debt.

W. H. COWLEY

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ALLEN F. DAVIS. *Spearheads for Reform: The Social Settlements and the Progressive Movement, 1890–1914*. Pp. xviii, 322. New York: Oxford University Press, 1967. \$7.50.

JOHN C. FARRELL. *Beloved Lady: A History of Jane Addams' Ideas on Reform and Peace*. Pp. 272. Baltimore: Johns Hopkins Press, 1967. \$6.95.

These two volumes inevitably recall Bremner's *From the Depts* (1956), Chambers' *Seedtime of Reform* (1963), and Resek's edited excerpts *The Progressives* (1967). Yet candor compels me to advert to the richness of the writings of many of the early “settlers,” such as Jane Addams, Lillian Wald, Mary Simkhovitch, and Graham Taylor—to name but a few—and to the wealth of material about the manifold aspects of progressivism produced throughout this century by perceptive historians and political scientists.

While the present volumes concentrate on the early years of the social settlements, the alert reader must continually ask whether there are persons in the field of social welfare who today speak with such zealous articulateness or push so relentlessly for reform. In 1926, at the National Conference of Social Work, Jane Addams took to task her fellow social workers for shying away from reform. She was in-

clined to lay much of what she considered the onus upon the drive toward professionalization. Over a decade before, social workers, at their national conference, had been startled to be told by Dr. Abraham Flexner that, according to his six-fold criteria, social work could not qualify as a profession, and hence they were not professional workers. Since then efforts had increasingly been made by social workers and by social work educators to achieve professionalization and the presumed accompanying status. The infusion from psychiatry were liberally utilized to lend respectability. Then came the impact of the economic Depression of the 1930's, followed by the Second World War, and, in the 1960's, a war on poverty.

Where were the social workers? Again, it is one member who, in his 1967 national conference presidential address, speaks directly to his fellows. "Social work was born in an atmosphere of righteous indignation, of divine discontent. Our legacy in working with people goes back to the philosophy of Beatrice Webb, to Jane Addams, to people who dared champion the individual man among the anonymous mass of men." His succeeding paragraph could have been written by Jane Addams: "Somewhere along the line, however, something happened. In our zeal to become, quote, 'professional,' the urgency of the challenge was lost. In the zeal to become professional and respectable, we lost, or rejected, the crusader label. Now, if there ever was a time, is the time for the crusader."

What is the significance of all this to the two books under review? The relevance must be obvious—there is a place—stronger, there must be a place—for those, who like Jane Addams, will commit themselves to change the status quo; who are willing to endure the vilification that beset her in her struggles for the immigrant, for the Negro, for the poor, for the industrially exploited woman and child worker, for suffrage, and for lasting peace. Given the present political parties, there may not be a Progressive movement with which to align, as Jane Addams could in her day. Nevertheless, the message has even greater

compulsion in view of the seriousness of today's problems—national and international.

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JAMES S. COLEMAN, ELIHU KATZ, and HERBERT MENZEL. *Medical Innovation: A Diffusion Study*. Pp. xxi, 246. New York: Bobbs-Merrill, 1966. \$2.95.

Medical Innovation is a report of a study conducted at the Bureau of Applied Research, Columbia University. One may be sure that in the hands of these notable investigators the work has its own innovations to offer.

The study focuses on the adoption of a new drug by 216 practicing physicians in four cities in one Midwestern area. Pharmacists' prescription files were used to trace the adoption of the drug from its introduction to a period eighteen months later when three-quarters of the doctors were prescribing it. The files demonstrate the cautious acceptance of the new drug by "early adopters," the gradual displacement of older drugs, and the typical S-shaped cumulative frequency curve of adoption, but also a "snow-balling" or "contagion" effect amongst the early adopters, when, after some months, many appear to want to get on the new-drug bandwagon.

The data from the prescription files were joined to many other facts gathered from questionnaire interviews with 126 of the physicians. These show the early adopter to be a heavy prescriber of drugs—of certain kinds—principally an internist, a frequent visitor to out-of-town medical centers, a reader of many professional journals, a man closely attuned to the medical world at large, and so on. About all that is left for the late adopter, it would seem, is an interest in patients.

The information channels were studied in detail. The doctors first hear about the new drug from commercial sources, but they go to their colleagues and professional journals for advice before they decide to use it. Detail men and direct-mail advertising reach them first, whether they are early or late adopters.

The most interesting section of the study, methodologically, is Part Two, which considers the doctors as parts of "networks," specifically their hospital affiliations—doctors with more full-time staff appointments tend to be early adopters of the drug—their office and clinic partnerships—those who share offices tend to be early adopters—their who-consults-whom network—those who are most consulted by other doctors tend to be the early adopters—their social friendship network—those with the widest web of friends tend to be early adopters—and their interdiscussion network—those with most of this are early adopters. Some doctors, in short, are at the center of things and others are on the periphery. The importance of the networks so considered is evident by the fact that eight months after release of the new drug there is a difference of 50 per cent in its adoption between those who are in the center of things socially—and no doubt likewise—and those who are isolated.

The authors thereupon ask whether it is the networks or some basic characteristics of the doctors which explain the innovation. Their data indicates the former. They show in this connection that the new drug begins to reach some doctors by a sort of "contagion" effect, a chain reaction in which one doctor "injects" another. It was most ingeniously quantified by making use of the existence of "pairs" of doctors in the data: some doctors, like pigeons, pair off for friendship, for discussion, for mutual advice. That is, "classes of social relations" become the category of measurement, not doctors considered singly. The process of diffusion, at the decision-making end of it, is then seen as involving several stages in which these "pairs" mediate differentially. The earliest penetration of the new drug is by way of advice and discussion pairs—taking one to four months. Next the friendship pairs mediate—the fourth and fifth months. During the fourth to sixth months peripheral pairs come into the adoption picture, for some relatively isolated doctors. Finally, during the seventh to fourteenth months, the drug is adopted by individual doctors unaffected by any pairing ties. At the fifteenth month there

are few additional adoptions: the cumulative adoption curve has levelled off.

This reviewer can only express his admiration for such work, but in doing so, he also has some misgivings. One begins to wonder whether there can ever be a genuine theory of diffusion when the emphasis is on methodological matters, and on facts, rather than on theoretical issues. For example: the study considers innovation from the standpoint of what facilitates adoption not what blocks it. Secondly, one must also consider in a study of this kind a general theory of communication. For example, a modern communication "theory" would suggest that the doctors may have been preselective about the use of the drug. Our authors know full well that some doctors may have prescribed a new drug at a patient's request, rather than on other grounds. But these misgivings, I hope, do not detract from the admiration I feel for this most perceptive study. I have only two minor points to add: since the four cities were remote from a medical center, it is small wonder that many doctors were found taking trips outside to visit medical centers. One wonders, also, whether a computer program for the mass of questionnaire data would not have facilitated its analysis, especially in the many cross-tabulations it permits—for example, for question seven processed against all the other data.

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HERBERT ZUCKER. *Problems of Psychotherapy*. Pp. viii, 194. New York: Free Press, 1967. \$5.95.

Dr. Zucker, a psychologist on the faculty of New York University, is one of an increasing number of psychoanalysts who do not follow their master dogmatically but are willing to think for themselves. He has used both his clinical experience and some existentialist conceptions to modify his approach to his patients in the direction of more participation in their feeling life and more action during his

treatment hours. Early in his book he writes: "Experience is based on the tangible and sensible rather than the descriptive and ideational, on direct participation rather than thought." This is a keynote. He insists that his patients "recreate actual situations and persons" rather than talk in abstractions and at arms length. He asks them: "Who and what are you?" He prefers language rich in imagery. He reacts to his patients, and does not merely instruct them authoritatively. "Reality is . . . more powerful . . . than interpretation." He disagrees with Freud's dictum that a dream is like a cryptogram to be decoded. He compares the understanding of dreams to translating from one language into another: "poetry into prose, recasting portraits into the forms of concepts and everyday logic." He concludes: "Psychotherapy needs mainly to be concerned with bringing into play all of the basic processes and capacities in human functioning."

The book will form part of the growing list aimed toward greater freedom of thinking and action in psychotherapeutic theory and practice. The author quotes, not only Freud, but also, Adler, Jung, Horney, Sullivan, and Fromm. Since the days when Rank and Ferenczi were working closely with Freud, attempts have been made to shorten and to make more effective and lasting the treatment of psychoneurosis and personality disorders. Classical analysis remains altogether too impractical for most patients in terms of time and money, and too ineffectual, unfortunately, despite the patience and fortitude of practitioners and patients alike. Present efforts are being made in two directions—the treatment of symptoms, in the manner of Wolpe and his colleagues, and delving more deeply and fearlessly into the patient's feeling life and his present-day close relationships. The first ignores the theory of the unconscious. The second tries to widen that concept and make it more profound. Our author follows this latter path. He makes a significant contribution in this direction. It is to be hoped that others will continue on the same way with as much lucidity. The future should, if more patients are to be helped, hold fruitful collaboration among

all three, classical analysts, behavior therapists, and innovators, such as Dr. Zucker
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HANS C. FURTH. *Thinking without Language: Psychological Implications of Deafness*. Pp. xvi, 236. New York: Free Press, 1966. \$6.95.

Behavioral scientists are frequently, and with some justice, accused of studying that which is inconsequential in terms of human values. Hans Furth's work refutes that allegation. Furth poses two important and related questions. (1) What is the relationship between thought and language? (2) Is the oralist approach to the education of deaf children realistic in its objectives?

Inquiry into the relationship between thought and language is hardly a new concern for scholars. The early chapters of this book provide a valuable summary of what has been said historically and of what psychologists are saying contemporarily. Furth focuses on the relationship between thought and language as revealed in the empirical study of the intellectual functioning of a group of language-deprived persons, the profoundly deaf. By language, Furth means, "in a strict sense . . . the natural, living language of a human society."

Students of the thought-language relationship have assumed almost universally that language is the critical means which enables human intelligence to be what it is. Furth's evidence indicates otherwise. Chapters 7 through 10 report a number of experiments dealing with the thinking of deaf and hearing persons. Previously reported in fuller detail in psychological journals, these experiments dealt with five broad areas of thinking behavior: concept discovery and control, memory and perception, Piaget-type tests of conservation, logical classification, and verbal mediation. Furth concludes: "The evidence for conceptual thinking of the linguistically deficient deaf leads to the direct conclusion that thinking develops through living contact

with the environment regardless of the presence or absence of a ready-made linguistic symbolic system" (p. 198).

The author identifies his primary concern as the psychological reality of human thinking. However, his chapter on the practical implications of his findings reveals a compassionate regard for the deaf. He notes that in the not-too-distant past, societies considered the deaf to be less than human because they could not communicate, and he castigates modern society for being primitive in that it demands of the deaf that they speak the language of society if they want full acceptance into that society. He notes that only an infinitesimal proportion of the severely deaf actually achieve any degree of competence in speech. He condemns the oralist approach which dominates schools for the deaf on the North American continent, and which strongly discourages other forms of communication lest the child lose motivation to learn speech. Furth recommends the purposeful development and use in the schools, at all levels, of the visual, kinesthetic, and gestural language already in use among the adult deaf, and, in spite of the oralist dominance, on the campuses of the residential schools. Furth believes that with such a symbolic system as base, the children could then learn the language of the larger society more effectively than they do at present.

The conscious development and use of such a language at all levels, including the preschool years, would permit the fullest possible communication between parents and young children, now often disastrously impeded by the insistence on speech emphasis by professionals. It could avert the now almost inevitable alienation of child from family.

Some psychologists will quarrel with Furth's findings or his interpretation of them. Educators of the deaf are only too apt to brush off his recommendations as merely another manifestation of the "manual emphasis." In throwing open to serious question both the belief that language is essential to the functioning of human intelligence, and the corollary insistence on the oralist approach to the education of

deaf children, Furth has made an important contribution.

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ROBERT D. HESS and JUDITH V. TORNEY.
The Development of Political Attitudes in Children. Pp. xviii, 228 Chicago: Aldine, 1967. \$9.75.

We are again living through a phase of American history when the "disenchantmentarians" are most loudly heard. At present, the elite of the youth at the leading universities and many of their professors are disaffected from the ideals of patriotism and self-relying activity, both of which have made Western civilization into what it is. Instead, they harken to the preachments of the Asiatic have-not nationalists who disguise themselves thinly as Communists.

It is against this background that the two authors have written a courageous and at the same time competent book. They have followed the socialization of our children, their growing into the attitudes required of the citizens of our commonwealth through four years; the two first years were pilot studies. However, a complete ontogenesis of socialization was not and could not have been within the purview of their work. This is said to caution readers against generalizations beyond the limits of this book. Hess and Torney set the aim to consider the political mentality of children from the moment they are able to read—second grade—to the eighth grade. Child psychologists are, of course, aware that the socialization of the child, and particularly the earliest stages of groping their way into the ethical values, and finally, the self-determination of the will according to ethical precepts, start much earlier.

The number of children who were examined with questionnaires and interviews is to my knowledge the largest ever subjected to such an investigation. Particularly interesting are the many literal quotations from interviews in which the freshness of the individual reactions is pre-

served. This leads us to the use of statistics, which in this book appears in a great number of graphs and in a methodological appendix.

Here is a general remark in which the authors summarize their views: "The young child's involvement with the political system begins with a strong positive attachment to the country; the United States is seen as ideal and as superior to other countries. This attachment to the country is stable and shows almost no change through elementary-school years. This bond is possibly the most basic and essential aspect of socialization into involvement with the political life of the nation. Essentially an emotional tie, it apparently grows from complex psychological and social needs and is exceedingly resistant to change or argument. It is a powerful emotional bond that is particularly important in time of national emergency. . . . The young child perceives figures and institutions of government as powerful, competent, benign, and infallible and trusts them to offer him protection and help. This early faith in political authority figures seems to be general among young children in this country. There is also reason to believe that it is characteristic of other countries (Hess, 1963)" (p. 213).

This reviewer found it necessary in his previous evaluation of Fred I. Greenstein's *Children and Politics* (THE ANNALS, Vol. 364, p. 220) to recommend consideration of the historical moment; as against which Hess and Torney have proven that children in the United States, and probably elsewhere too, follow, in the growth and type of their political involvement, typical developmental stages of the mind.

This is important for pedagogics as well as for propaganda. In totalitarian regimes, the propagandists try to return the masses to the emotional age of childhood by stressing the ties with the leader and through other ways of primitivization.

In Hess' and Torney's investigation, it is shown that the emotional personality ties give way to objectivism and institutional interests. At this later stage, the symbols too change their content, and this is the reason why democracy can, as it

ought to, propagandize its ideas and ideals. It will achieve this in following "natural" developmental trends.

The book by Hess and Torney is a definite step in securing solid developmental facts. Therefore, it should become a leading text to be read by those interested in cementing democracy.

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PATRICIA CAYO SEXTON. *The American School: A Sociological Analysis*. Pp vi, 122. Englewood Cliffs, N J: Prentice-Hall, 1967. \$4 50.

Within the 122 pages of this book, the author discusses American formal education from primary grades through graduate school. She discusses private as well as public schools. For purposes of comparison, she includes references to numerous foreign educational systems. She discusses urban problems and the financing of educational research. She writes of race relations and poverty. She discusses unionized teachers, school boards, and educational establishments. She considers feminine values, capitalism and corporate power, anti-intellectualism, the psyche and the social order, federal authority, scientific management, and the Protestant Ethic. To do justice to so many topics in so few pages would require an act of genius, and while Professor Sexton's attempt is heroic, it must be judged a failure.

The book's most serious shortcoming is the absence of structure sufficient to make sense of the myriad of phenomena discussed. In the name of sociological analysis, the author serves up a polyglot hash of sources. With little attempt to distinguish one source from the other, she mixes the opinions of an astonishing number of individuals, including such diverse figures as Martin Mayer, Theodore Brameld, James Conant, Mao Tse-tung, Seymour E. Harris, John Dewey, Marshall McLuhan, Adam Smith, and an anonymous writer for *Izvestia*. For seasoning she adds a bewildering array of statistics. Into this conglomerate, she inserts a number of questionable generalizations, such as "social reformers have generally failed to influence

school practice," and "in institutions where goals are clear, as profits are for businesses, philosophy has no role." In a book with a well-developed structure, such diversity might be a source of strength. As it is, however, there seems to be little method to this mixture.

There has been, until recently, a serious shortage of sociological scholarship concerning the schools. Social scientists in professional schools of education have emphasized psychology rather than sociology, while other scholars have largely neglected the social aspects of education. Sociology can contribute greatly to our understanding of institutions of learning. Serious studies focusing on the functions of the schools in our society are useful to educational scholars. However, a book such as the one Professor Sexton has written is of little value even though it contains an occasional provocative idea. It provides no unity of approach. It is neither good description nor strong prescription, but simply a random collection of conflicting statistics and opinions.

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ECONOMICS

JOHN STUART MILL *Essays on Economics and Society*, Vols. I and II. (*Collected Works of John Stuart Mill*, Vols. IV and V) Edited by J. M. Robson. Pp. lv, 847. Toronto: University of Toronto Press, 1967. \$25.00.

Karl Marx, as harsh a critic of Mill as is to be found in the literature, nevertheless said of him that he was not to be classed "with the herd of vulgar economic apologists." Bernard Shaw and Sidney Webb, along with many others, thought Mill was better understood not as a liberal but as a socialist. The publication of Mill's *Essays on Economics and Society* is, therefore, much to be welcomed—for their intrinsic merit as well as for the evidences they provide to support at least this one of Marx's judgments and to qualify that of

the two Fabians. But whether Mill should be termed a socialist with reservations, or a liberal with deviations, is not, I think, particularly important. He was much too sensitive and discriminating a thinker to be bound by doctrinal rigidities, and he clearly saw the merits and liabilities of both positions.

These latest additions to the *Collected Works* include the complete texts of the *Essays on Some Unsettled Questions of Political Economy* and the *Chapters on Socialism*, heretofore largely unobtainable, as well as some twenty-six shorter essays and testimonies given before parliamentary committees, most of which were not previously reprinted by Mill. Lord Robbins' introduction provides a topical guide to the essays, here printed in chronological order, and he relates them to Mill's *Principles of Political Economy*. Professor Robson, the textual editor, carefully notes variants in the manuscript copy and different editions of the essays, and, through the excellent bibliographic Index, corrects and amplifies Mill's citations of works and persons. In all respects, these books conform to the high standards set by the earlier volumes.

Economists who still prefer English to mathematics will find much in the *Essays* to command their attention: Mill's repudiation of his own wages-fund theory; his approval of competition as a principle of trade, along with his severe strictures on exploitation and the existing property system; his plea for greater co-operation, along the lines of industrial partnership or what we would today call profit-sharing, among workers and employers; his views on egalitarianism in taxation; his searing comments on the evils of poverty; his observations on economics as a science and on the importance of precise and adequate definitions—as in the superb last chapter of his *Essays on Some Unsettled Questions of Political Economy*; and above all, his understanding throughout, perhaps because he was also a philosopher, that economic analysis divorced—rather than merely distinguished—from ethical judgments and unrelated to politics, education, and, indeed, the entire range of social concerns, is an

impoverished and humanly deficient discipline.

It is, therefore, scarcely a matter of surprise that Mill should be esteemed for qualities that transcend his technical economic teachings. He was, for example, an elegant stylist and a skillful polemicist. In an essay (Vol. I, pp. 25-43) critical of an article in the *Quarterly Review*, with which his own *Westminster Review* was at war, he pretended ignorance of the fact that Malthus was the author of the article under attack and easily demonstrated that the article was both insufficiently Malthusian, indeed incompatible with certain Malthusian tenets, and ridden with logical error. Phrases and aphorisms, like "the ruins of exploded error" and "I think that you are never entitled to suppose that men will not do what they ought to do, for the purpose of doing something to them which would be an injustice if they did do what they ought to do" (Vol. II, p. 589), are so abundant as almost to cease to be arresting. They are excelled only by the wealth of insightful *aperçus*, of which one example must suffice: "it is not always where there are schools that there is a wish to educate. . . . [T]eaching the poor is almost the only public duty in which the payers are more a check than a stimulant to the zeal of their own agents" (Vol. I, pp. 376-377).

Despite his general fairness, Mill was not always a gentle critic. He had a full measure of the theorist's contempt for the alleged wisdom of practical men. A passage in the earliest of these *Essays* expresses a sentiment to which he was often to recur, and which is not, alas, inapplicable today: "There cannot be a worse authority, in any branch of political science, than that of merely practical men. They are always the most obstinate and presumptuous of all theorists. Their theories, which they call practice, and affirm to be the legitimate results of experience, are built upon a superficial view of the small number of facts which come within the narrow circle of their immediate observation; and are usually in direct contradiction to those principles which are deduced from a general and enlarged experience. Such

men are the most unsafe of all guides, even in matters of fact. . . . [T]hey have their eyes open to such facts alone as square with those theories. They are constantly confounding facts with inferences, and when they see a little, supply the remainder from their own imaginations" (Vol. I, p. 19; and see further pp. 324ff.).

Nor was Mill sympathetic to those theorists who, like all too many behavioral "scientists" in our own time, seek to build a science out of particularized and narrowly focused investigations. "To all of them, perhaps, it may be objected, that they attempt to construct a permanent fabric out of transitory materials; that they take for granted the immutability of arrangements of society, many of which are in their nature fluctuating or progressive; and enunciate with as little qualification as if they were universal and absolute truth, propositions which are perhaps applicable to no state of society except the particular one in which the writer happened to live." This, Mill went on to observe, "is one of the reasons why a *literal* understanding cannot be a good understanding, and why the greatest powers of reasoning, when connected with a sluggish imagination, are no safeguard against the poorest intellectual slavery—that of subjection to mere accidental habits of thought" (Vol. I, pp. 225-226).

Few are likely to dispute Lord Robbins' judgment that these *Essays* "represent a very significant achievement, a body of pronouncements on economic theory and the relations between economics and social philosophy which has no obvious rival among the productions of other writers on these subjects in the literature of the period" (Vol. I, p. xli). I would add that, despite a century of later tracts and treatises, the *Essays* remain a richly rewarding, because still enlightening, experience.

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JEROME ROTHENBERG. *Economic Evaluation of Urban Renewal: Conceptual Foundation of Benefit-Cost Analysis*. Pp.

xiii, 277. Washington, D C.: Brookings Institution, 1967. \$6.75.

Because the urban renewal program is large, Professor Rothenberg notes, "and may make a deep and not easily alterable difference in urban living, it is important to be reasonably sure that it is well conceived" (p. 9). Rothenberg's objective in this book is to develop an analytical framework, primarily for application to residential redevelopment projects, within which such a "reasonable" level of assurance can be attained. The focus is prospective, not retrospective. Rothenberg is not concerned with the past. Rather, he addresses himself to formulation of criteria by which proposed projects and the future of the urban renewal program itself may be tested.

The first part of the book contains a summary and introduction, an overview of the type of cost-benefit analysis considered most relevant to the evaluation of urban renewal, and an extended discussion of the objectives of the urban renewal program. Rothenberg devotes one chapter, which I regard as the best in the book, to elimination of slums and blight. His treatment of the external effects which encourage slum formation by private interests and which frustrate the desires of slum dwellers to strike a rational balance between cheap housing and other demands on limited budgets is the best I have seen. Another chapter is devoted to several other social goals, including mitigation of poverty, provision of decent housing, revival of downtown business areas, expansion of nonprofit institutions, and attraction of both middle-income households and "clean" industry. He then discusses urban renewal as an effort to provide financial subsidies to municipal governments in the core cities, and ends the section with an analysis of the problem of determination of an appropriate discount rate by which to measure the present values of future flows of benefits and costs.

In Part Two Rothenberg formulates a technique for measurement of benefits and applies it in what he calls "only an illustrative exercise" (p. 176) to five residential redevelopment projects in Chicago. His model of the impact of rede-

velopment focuses on the important factors in actual situations; and the adjustments, omissions, and simplifying assumptions he proposes, in order to convert the model into a framework for analysis of attainable quantitative data, seem ingenious and reasonable. His technique is surely not the last word in cost-benefit analysis of redevelopment projects, but it should be an extremely helpful one. The mathematical features of the model can be readily understood by the mathematically unsophisticated.

Despite Rothenberg's disclaimer that the work is only illustrative, his analyses of the five Chicago projects yield two interesting conclusions. Firstly, there appear to have been substantial economies of scale, since benefits rose relative to costs as the sizes of the projects increased and since only the two largest yielded net measurable benefits. Secondly, the elimination of social costs generated by slum life, although not measurable, may very well be the most important factor in determining whether or not a particular project is justifiable.

The third and final part contains a review of major criticisms of redevelopment and discussion of alternatives to it, including an extremely effective attack on Martin Anderson's 1964 book, *The Federal Bulldozer*. This portion of the book is weakened, in my opinion, by Rothenberg's failure to address himself to the issue raised very pointedly in Raymond Vernon's 1962 book, *The Myth and Reality of Our Urban Problems*, in which Vernon makes a strong case for the argument that urban renewal has been correcting deficiencies of concern to the very rich and to the intellectuals rather than to the city's poorer inhabitants.

Throughout, Rothenberg demonstrates a high level of detached analytical ability coupled with sensitivity and compassion. In all, *Economic Evaluation of Urban Renewal* is an excellent book.

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JOHN MICHAEL MONTIAS. *Economic Development in Communist Rumania*. Pp.

xiv, 326 Cambridge, Mass.: M.I.T. Press, 1967. \$10.00.

Professor Montias has produced, after his *Central Planning in Poland*, another substantial volume which enhances his position as perhaps the leading American economic expert on many of the Communist countries of Europe.

Meeting the need for a comprehensive treatment of this much-neglected "maverick" country, the Yale professor has screened and analyzed official data from both Rumanian and other Communist sources until 1966, constructing also, with Professor Pong E. Lee, an industrial production index—explained in Appendix A—and adjusting other series, so as to remedy as best as possible the claims and outright gaps in Rumanian statistical materials. The result is a convincing methodological base which, in spite of several controversial aspects, enables the author to draw meaningful conclusions and to also offer comparisons with other Communist and non-Communist countries.

In his intent to evaluate Rumania's economic development, the author concentrates on four areas, industry, agriculture, foreign trade, and Rumania's role within the Council for Mutual Economic Assistance (COMECON), trying to answer the basic question, for example, "whether development has proceeded along the general lines charted by the Party and at more or less the pace anticipated in the long-term plans" (p. vii). Overall, he gives a positive answer for the industrial sector and a negative one for agriculture.

Although his treatment of industry and agriculture is full of solid evidence and interesting conclusions, I see even greater merits in his emphasis on the interrelation between domestic development and foreign trade as a pioneering case study with broad implications.

Not only are the author's statistical reconstructions in this difficult area a major contribution—see also Appendix C, but his findings on the relationship between Rumanian foreign trade and the national economy, on the changes in the composition and distribution of that trade, and on the controversy between Rumania and the

COMECON provide us with novel and significant material. It transpires that the Rumanian leadership has scored a "victory" in its quest for all-round heavy industrialization vis-à-vis COMECON's pressures for specialization, at least until the Soviets continue deliveries of raw materials against manufactures; otherwise, either Western markets should be found for Rumania's new industries or the Rumanian population could again be forced to forego agricultural products, to be sold on the world market.

Montias, in his summary, is sceptical about the longer-run success of the Rumanian strategy to shift to an "intensive" type of growth without reforming its centralized economic system and without a healthy expansion of agriculture. He also seems to question the rationale of the policy of industrial protectionism, although recognizing the impossibility of an objective appraisal, as value judgments have to be involved.

This massive study, destined for the specialist, contains only a few shortcomings—for example, inconsistency between the chronological treatment of industry and the topical arrangement of the remaining material, or repetitions through inclusion of foreign-trade discussions outside the relevant chapters, or incomplete table titles (p. 68), and meaningless "guesses" increase in real wages "somewhere between 30 and 80 percent," (p. 79)—but many outstanding contributions.

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JAMES G. MADDOX, with E. E. LIEBHAF-SKY, VIVIAN W. HENDERSON, and HERBERT M. HAMLIN. *The Advancing South: Manpower Prospects and Problems*. Pp xvi, 276. New York Twentieth Century Fund, 1967. \$6.50

This study, financed and published by the Twentieth Century Fund, is the product of Southern scholars working under the direction of Professor Maddox of North Carolina State University. In the background setting of the history, economic system, and culture of the South, which,

even before the Civil War, sent this region off on a different path from that of the rest of the nation, the authors examine the developments of the past two decades, assess their implications for the future, and make some policy recommendations.

The emphasis is on manpower, of course, but looking at the South in the same light as the advanced industrial nations look at the underdeveloped nations, the authors also explicate important nonmanpower factors in the Southern economic scheme, as well as the cultural and social factors which intertwine the economic picture and serve to hinder or help in the slow but sure transformation which is going on.

The substance of the work ranges from a historical background to data on recent economic changes, the South in relation to the national economy, industry-mix and Southern employment, education and growth, and racial inequality and closes with manpower projections and policy. This is not a large volume—each of the nine chapters is relatively short—considering the subject—and to the point.

There is little that is new, but, as a compact and readable compendium of the important data in the manpower field as it is seen in the South, it serves its purpose well. I have only two criticisms. Firstly, the authors' emphasis on the Negro aspect of manpower and growth, with only occasional reference to the poor white, creates a somewhat unbalanced approach. Secondly, I could find no mention of unions—though it is possible that I missed the word. Certainly the question of union organization and the possible role of unions in the allocation of manpower, in seniority systems under collective bargaining as they affect the Negro, for example, deserves some attention.

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F THOMAS JUSTER. *Household Capital Formation and Financing, 1897-1962*. Pp xiv, 146. New York: National Bureau of Economic Research (Distrib-

uted by Columbia University Press), 1966. \$6.00.

For some time now in the postwar decades, economists have been interested in the rapid growth of household capital formation—that is, the purchase by households or consumers of homes, cars, appliances, and other durable goods in contrast to the purchase of perishable and semi-perishable commodities, such as food and clothing—and of its influence on the short- and long-term fluctuations in the American economy. In this book Professor Juster has undertaken a careful and systematic investigation of these problems and has produced a volume which is clearly the definitive quantitative study on the subject.

He finds that whereas household capital formation comprised only one-fourth of gross fixed-capital formation or investment around the turn of the century, it was nearly one-half in the 1950's and surpassed in importance the volume of investment by business enterprise. This was accomplished by great changes in household financing, most interesting of which was that while only 10 per cent of household capital formation was financed by credit in the earlier period, 60 per cent was debt-financed in the 1950's. He concludes that consumers are now a "more important determinant—of the growth and the cyclical variation in the nation's total fixed capital investment than are business enterprises," and if one adds the enormous amounts of household spending on education, which can be thought of as investment in intangibles—about \$40 billion in early 1960's—it seems to me that households can no longer be regarded as consumers in the usual sense, that is, an institution to which goods and services produced by the economy moves and immediately disappears from the system. This changes the character of the household as an institution with ramifications which are likely to be extensive, not only economically, but politically and culturally.

Juster focuses his analysis on the impact of household capital formation on business cycles. He finds that since much of household capital formation can be financed out of borrowings and not out of proceeds

from current incomes, it has added to cyclical variability and "help to generate cyclical disturbances," in ways similar to business capital formation; however, there is a difference in timing, and therefore movements in household capital formation have "tended to offset rather than reinforce movements in the enterprise sector" (p. 85) and thereby tended to keep contractions milder than they would be without such offsets. Though the author believes that the offsetting "may have been fortuitous" (p. 86) in the 1950's, it need not be and can be the objective of monetary policy. That is to say, when savings tend to exceed the needs of business capital formation and a contraction begins, these excessive savings can be channelled to the households through lower interest rates and down payments and longer maturities for their capital formation; thus, the kind of cumulative downward movements that Keynes had in mind in the *General Theory* as a consequence of excessive savings can be avoided, even before fiscal policy comes into action. On this point, Juster's discussion of the importance of down-payment requirements and contract maturities in the cost of consumer borrowing is most interesting.

It is beyond the purpose of Juster's study to analyze the long-term economic implications of the household assuming increasingly the role of investor, but these are likely to be of greater significance than the short-term ones, not only for an advanced country like the United States but even for the urban areas of underdeveloped countries. This reviewer has briefly speculated on some of these in a paper in the *Economic Journal* of March 1961.

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ABRAHAM J. BRILLOFF. *The Effectiveness of Accounting Communication*. Pp xx, 338. New York: Frederick A. Praeger, 1967. \$17.50.

This book is a strong indictment of the accounting profession for ineffective communication with those who make use of

financial statements. Its message is, indeed, a forceful one, but the way in which the author presents his case is, to this reviewer, an unfortunate one.

Briloff insists that there is a credibility gap between the accountant who attests to corporate reports and the financial community of investors, creditors, employees, government units, customers, security analysts, and others; this is due to the confused and ambivalent vocabulary which is used to conduct this communication. He feels that accounting research apparatus and procedures to correct this are inadequate and misdirected; the objectives of the accounting process are not truly understood; and the parties involved in the communication process are not properly determined. He also questions whether the proliferation of management services, in which the accounting profession has lately indulged, does not also create a management bias which further affects the credibility of accounting reports.

To correct this, the author would establish a commission of accountants and laymen who would promulgate an unambiguous set of accounting principles and who would require better education of the user groups for a greater understanding of these principles. The auditor—unaffected by the influence of the management and possibly his own management services—would be made the arbiter of accounting decisions. Finally, Briloff would center accounting research in the universities rather than in the American Institute of Certified Public Accountants (AICPA), and he would reappraise the education of those entering into and those already in the profession.

The book is based on the author's doctoral dissertation. He uses as his empirical evidence the responses to a lengthy questionnaire sent to many members of the accounting profession—which the author interestingly divides into "The Big Eight" accounting firms, other practitioners, and professors—and the financial community. This reviewer has always doubted the value of questionnaires, especially of truly involved ones such as this, to prove anything, a fact to which the editors of the defunct

Literary Digest or the designers of the Edsel automobile might attest. The author's statistical analysis of the responses to various questions and, indeed, his drawing graphs of these answers served largely to distract rather than to convince this reviewer.

The turgid style of the book was equally disturbing. The author flows off in many directions, embracing literature, philosophy, and history, in a manner that seemed out of character for a book on a business-like subject. Doctoral dissertations seldom make good books, and this one is no exception. What it has to say is important, but the manner of presentation certainly affects the effectiveness of its communication.

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OTHER BOOKS

- AKE, CLAUDE. *A Theory of Political Integration*. Pp. ix, 164. Homewood, Ill.: Dorsey Press, 1967. \$5.00.
- ALLWORTH, EDWARD (Ed.). *Central Asia. A Century of Russian Rule*. Pp. xiv, 552. New York: Columbia University Press, 1967. \$12.95.
- AMME, CARL H., JR. *NATO without France: A Strategic Appraisal*. Pp. xv, 195. Stanford, Calif.: Hoover Institution on War, Revolution and Peace, 1967. \$5.50.
- BAILEY, RICHARD. *Problems of the World Economy*. Pp. 201. Paper-bound edition. Baltimore: Penguin Books, 1967. 95 cents.
- BALASSA, BELA. *Studies in Trade Liberalization: Problems and Prospects for the Industrial Countries*. Pp. xiii, 346. Baltimore: Johns Hopkins Press, 1967. \$11.50.
- BAYTCH, S. A. *Latin America and the Caribbean: A Biographical Guide to Works in English*. Pp. xxviii, 943. Dobbs Ferry, N.Y.: Oceana, 1968. \$30.00.
- BELAUNDE-TERRY, FERNANDO. *Peru's Own Conquest*. Pp. 219. Lima, Peru: American Studies Press S. A., 1965. No price.
- BONJEAN, CHARLES M., RICHARD J. HILL, and S. DALE McLEMORE. *Sociological Measurement: An Inventory of Scales and Indices*. Pp. xiv, 580. San Francisco: Chandler, 1967. \$12.00.
- BRAUNTHAL, JULIUS. *History of the International*, Vol. II: 1914-1943. Translated by John Clark. Pp. xi, 596. New York: Frederick A. Praeger, 1967. \$17.50.
- BRICKMAN, WILLIAM W. (Ed.). *Educational Imperatives in a Changing Culture. Fifty-Third Schoolmen's Week Proceedings*. Pp. ix, 232. Philadelphia: University of Pennsylvania Press, 1967. \$6.00.
- BRODBECK, MAY (Ed.). *Readings in the Philosophy of the Social Sciences*. Pp. ix, 789. New York: The Macmillan Company, 1968. \$9.95.
- BRODIE, FAWN M. *The Devil Drives. A Life of Sir Richard Burton*. Pp. 390. New York: W. W. Norton, 1967. \$6.95.
- BUXTON, DAVID. *Travels in Ethiopia*. Pp. 176. Reprint Edition. New York: Frederick A. Praeger, 1967. \$7.50.
- CARUS-WILSON, E. M. *Medieval Merchant Ventures: Collected Studies*. Pp. xxxiv, 314. Paper-bound edition. New York: Barnes & Noble, 1967. \$3.00.
- CASE, MARGARET H. *South Asian History, 1750-1950: A Guide to Periodicals, Dissertations, and Newspapers*. Pp. xiii, 561. Princeton, N.J.: Princeton University Press, 1968. \$17.50.
- CHORLEY, RICHARD J., and PETER HAGGETT (Ed.). *Models in Geography*. Pp. 816. New York: Barnes & Noble, 1967. \$19.00.
- CODDING, GEORGE A., JR. *Governing the Commune of Veyrier: Politics in Swiss Local Government*. Pp. xi, 98. Paper-bound edition. Boulder: Bureau of Governmental Research, University of Colorado, 1967. No price.
- COOPER, DUFF. *Talleyrand*. Pp. 399. Paper-bound edition. Stanford, Calif.: Stanford University Press, 1967. \$2.95.
- COUSINS, NORMAN. *Present Tense. An American Editor's Odyssey*. Pp. xviii, 679. New York: McGraw-Hill, 1967. \$7.95.
- DAHL, ROBERT, and DEANE E. NEUBAUER (Eds.). *Readings in Modern Political Analysis*. Pp. xi, 424. Paper-bound edition. Englewood Cliffs, N.J.: Prentice-Hall, 1968. \$3.95.
- DE VOS, GEORGE, and HIROSHI WAGATSUMA. *Japan's Invisible Race: Caste in Culture and Personality*. Pp. xxiii, 415. Paper-bound edition. Berkeley and Los Angeles: University of California Press, 1967. \$3.95.
- DONOVAN, JOHN C. *The Politics of Poverty*. Pp. xv, 157. New York: Pegasus, 1967. \$5.75.
- DRACHKOVITCH, MILORAD M. (Ed.). *The Revolutionary Internationals, 1864-1943*. Pp. xv, 256. Paper-bound edition. Stanford, Calif.: Stanford University Press, for the Hoover Institution on War, Revolution and Peace, 1968. \$2.95.

- DUWAJI, GHAZI. *Economic Development in Tunisia: The Impact and Course of Government Planning*. Pp. xvii, 222. New York: Frederick A. Praeger, 1967. No price.
- EDWARDS-REES, DÉSIREE. *Ireland's Story*. Pp. 214. New York: Barnes & Noble, 1967. No price.
- ELDRIDGE, LAURENCE H. *Trials of a Philadelphia Lawyer*. Pp. vii, 257. Philadelphia: J. B. Lippincott, 1968. \$5 95.
- EVANS, W. MCKEE. *Ballots and Fence Rails: Reconstruction on the Lower Cape Fear*. Pp. x, 314. Chapel Hill: University of North Carolina Press, 1967. \$7.50.
- FIELD, G. LOWELL. *Comparative Political Development: The Precedent of the West*. Pp. xi, 247. Ithaca, N.Y.: Cornell University Press, 1967. \$6 75.
- FIELDHOUSE, D. K. *The Theory of Capitalist Imperialism*. Pp. xix, 202. Paper-bound edition. New York: Barnes & Noble, 1967. \$2.75.
- FORBES, JACK D. (Ed.). *Navaho Indians Speak*. Pp. xii, 293. Reno: University of Nevada Press, 1967. \$5.75.
- GENICOT, LÉOPOLD. *Contours of the Middle Ages*. Translated from the French by Laurence Wood and Rona Wood. Pp. xi, 322. New York: Barnes & Noble, 1967. \$7.50.
- GINZBERG, ELI, and HERBERT A. SMITH. *Manpower Strategy for Developing Countries. Lessons from Ethiopia*. Pp. viii, 188. New York: Columbia University Press, 1967. \$6 75.
- GOFFMAN, ERVING. *Interaction Ritual: Essays in Face-to-Face Behavior*. Pp. 270. Chicago: Aldine, 1967. \$5.75.
- GRAY, RALPH D. *The National Waterway: A History of the Chesapeake and Delaware Canal, 1769-1965*. Pp. xi, 279. Urbana: University of Illinois Press, 1967. \$3.95.
- GUILD, NELSON P., and KENNETH T. PALMER. *Introduction to Politics: Essays and Readings*. Pp. ix, 341. New York: John Wiley & Sons, 1968. \$7.95.
- HADDEN, JEFFREY K., LOUIS H. MASOTTI, and CALVIN J. LARSON (Eds.). *Metropolis in Crisis: Social and Political Perspectives*. Pp. xiv, 521. Itasca, Ill.: F. E. Peacock, 1967. \$7.50.
- HALSTEAD, JOHN P. *Rebirth of a Nation: The Origins and Rise of Moroccan Nationalism, 1912-1944*. Pp. x, 323. Paper-bound edition. Cambridge, Mass.: Harvard University Press, for the Center for Middle Eastern Studies, Harvard University, 1967. No price.
- HAMMOND, PETER B. *Yatenga: Technology in the Culture of a West African Kingdom*. Pp. xi, 231. New York: Free Press, 1966. \$6 95.
- HARTWELL, R. M. (Ed.). *The Causes of the Industrial Revolution in England*. Pp. ix, 177. Paper-bound edition. New York: Barnes & Noble, 1967. \$2.85.
- HAVIGHURST, CLARK C. (Ed.). *International Control of Propaganda*. Pp. x, 196. Dobbs Ferry, N.Y.: Oceana, 1967. \$6 00.
- HERRICK, BRUCE H. *Urban Migration and Economic Development in Chile*. Pp. x, 126. Cambridge, Mass.: M.I.T. Press, 1965. \$5 00.
- HIMES, JOSEPH S., and WILBERT E. MOORE. *The Study of Sociology: An Introduction*. Pp. 504. Glenview, Ill.: Scott, Foresman, 1968. No price.
- HIRSCHMAN, ALBERT O. *Development Projects Observed*. Pp. xiv, 197. Washington, D.C.: Brookings Institution, 1967. \$6 00.
- HOBBS, CECIL. *Account of a Trip to the Countries of Southeast Asia for the Library of Congress, August-December 1965*. Pp. x, 92. Paper-bound edition. Ithaca, N.Y.: Southeast Asia Program, Cornell University, 1967. \$2.00.
- HOETINK, H. *The Two Variants in Caribbean Race Relations*. Translated from the Dutch by Eva M. Hooykaas. Pp. xii, 207. New York: Oxford University Press, for the Institute of Race Relations, London, 1967. \$7.00.
- HOLMES, GEOFFREY. *British Politics in the Age of Anne*. Pp. xiv, 546. New York: St. Martin's Press, 1967. No price.
- HOLT, JAMES. *Congressional Insurgents and the Party System, 1909-1916*. Pp. viii, 188. Cambridge, Mass.: Harvard University Press, 1967. \$5.50.
- IONS, EDMUND S. *The Politics of John F. Kennedy*. Pp. xii, 228. New York: Barnes & Noble, 1967. \$5 00.
- JAWORSKYJ, MICHAEL (Ed.). *Soviet Political Thoughts: An Anthology*. Translated by Michael Jaworskyj. Pp. xii, 621. Baltimore: Johns Hopkins Press, 1967. \$15 00.
- JENES, C. WILFRED. *Law in the World Community*. Pp. xii, 164. New York: David McKay, 1967. \$7 95.
- JONES, HARRY W. (Ed.). *Law and the Social Role of Science*. Pp. 242. New York: Rockefeller University Press, 1966. \$6 00.
- KATZ, JAY, JOSEPH GOLDSTEIN, and ALAN M. DERSHOWITZ. *Psychoanalysis, Psychiatry, and Law*. Pp. xxiii, 822. New York: Free Press, 1967. \$15.00.
- KAY, DAVID A. (Ed.). *The United Nations Political System*. Pp. x, 419. New York: John Wiley & Sons, 1967. \$7 95.
- KING, JOHN A., JR. *Economic Development*

- Projects and Their Appraisal. Cases and Principles from the Experience of the World Bank.* Pp xii, 530 Baltimore: Johns Hopkins Press, 1967 \$15.00.
- KIRKPATRICK, LYMAN B, JR. *The Real CIA* Pp. 312. New York The Macmillan Company, 1967 \$6.95
- KUHLAND, PHILIP B (Ed) *The Supreme Court Review: 1967* Pp vii, 309 Chicago: University of Chicago Press, 1967 \$9.75
- LANG, SERGE *The Scheer Campaign* Pp xiv, 241 Paper-bound edition. New York: W. A. Benjamin, 1967. No price
- LEIBHOLZ, GERHARD *Politics and Law* Pp 339. Leyden, The Netherlands. A W Sythoff, 1965 No price.
- LOCKARD, DUANE. *Toward Equal Opportunity A Study of State and Local Anti-discrimination Laws.* Pp vii, 150 Paper-bound edition New York: The Macmillan Company, 1967. No price.
- LONDON, KURT *The Permanent Crisis: Communism in World Politics.* Pp. x, 246. Paper-bound edition. Waltham, Mass.: Blaisdell, 1968 \$2.95.
- MCDONALD, JOHN W., and HERBERT HARARI *Social Psychology: Individuals, Groups, Societies.* Pp xi, 479. New York Harper & Row, 1968. \$10.00.
- MANNING, THOMAS G. *Government in Science. The U.S. Geological Survey, 1867-1894.* Pp. xiv, 257. Lexington University of Kentucky Press, 1967. \$7.00.
- MASON, ALPHEUS THOMAS *The Supreme Court: From Taft to Warren.* Pp. xv, 293. Second (Revised) Edition Baton Rouge: Louisiana State University Press, 1968. \$6.95
- MATTHEWS, DONALD R., and JAMES W. PROTHRO. *Negroes and the New Southern Politics.* Pp. xvi, 551. New York: Harcourt, Brace & World, 1966 \$12.50.
- MINER, HORACE (Ed). *The City in Modern Africa* Pp xi, 364. New York: Frederick A Praeger, 1968 \$7.50
- MORROW, JOHN H *First American Ambassador to Guinea.* Pp. xiv, 291 New Brunswick, N.J.: Rutgers University Press, 1968 \$9.00.
- MULLER, KURT. *The Foreign Aid Programs of the Soviet Bloc and Communist China.* Translated by Richard H. Weber and Michael Roloff Pp. xiii, 331. New York Walker, 1967 \$15.00.
- NELSON, JOAN M. *Aid, Influence, and Foreign Policy* Pp. ix, 149 Paper-bound edition. New York The Macmillan Company, 1968. No price.
- PERMAN, DAGMAR HORNA (Ed). *Bibliography and the Historian: The Conference at Belmont of the Joint Committee on Bibliographical Services to History, May 1967.* Pp viii, 176. Paper-bound edition. Santa Barbara: CLIO Press, 1968. \$3.75.
- POOL, ITHIEL DE SOLA (Ed.). *Contemporary Political Science: Toward Empirical Theory.* Pp. xvi, 276 New York: McGraw-Hill, 1967. No price
- PRATT, JULIUS W. *Challenge and Rejection: The United States and World Leadership, 1900-1921.* Pp viii, 248. New York. The Macmillan Company, 1967 \$5.95.
- PRICE, JAMES L. *Organizational Effectiveness: An Inventory of Propositions.* Pp xv, 212 Homewood, Ill. Richard D. Irwin, 1968. \$3.75.
- PRUITT, IDA *A Daughter of Han The Autobiography of a Chinese Working Woman.* Pp. vi, 254 Paper-bound edition Stanford, Calif.: Stanford University Press, 1968. \$2.95
- ROBERTS, JOHN S *A Land Full of People: Life in Kenya Today.* Pp 240 New York: Frederick A. Praeger, 1966. \$6.50.
- ROBINSON, DAVID A. *Peru in Four Dimensions.* Pp. xiv, 424 Lima, Peru: American Studies Press S.A., 1964. \$10.75.
- ROMERO, JOSÉ LUIS *A History of Argentine Political Thought.* Translated by Thomas F. McGann. Pp. xvii, 274. Stanford, Calif.: Stanford University Press, 1968. \$2.95.
- ROWAN, RICHARD L., and HERBERT R. NORTHROP (Eds). *Readings in Labor Economics and Labor Relations* Pp. ix, 573. Paper-bound edition. Homewood, Ill.: Richard D. Irwin, 1968. \$5.50
- RUDRA, ASHOK. *Relative Rates of Growth Agriculture and Industry.* Pp xi, 91. Bombay: University of Bombay, 1967. Rs 8.
- SCHUR, EDWIN M. *Law and Society: A Sociological View.* Pp x, 239 Paper-bound edition New York: Random House, 1968. \$2.95.
- SCHÜTZ, WILHELM WOLFGANG *Rethinking German Policy. New Approaches to Reunification.* Pp. 154 New York: Frederick A Praeger, 1967 \$5.50
- SCOTT, STANLEY (Ed) *Local Government in a Changing World: A Seminar for City and County Managers, 1965-1966.* Pp. xiii, 280 Paper-bound edition Berkeley Institute of Governmental Studies, University of California, 1967 \$3.00
- SHANKS, MICHAEL. *The Innovators: The Economics of Technology* Pp. 294 Paper-bound edition. Baltimore: Penguin Books, 1967. \$1.45.

- SHARMAN, LYON. *Sun Yat-sen: His Life and Its Meaning*. Pp. xxi, 420. Paper-bound edition. Stanford, Calif.: Stanford University Press, 1968. \$2.95.
- SIEGEL, MAX (Ed.). *The Counseling of College Students: Function, Practice, and Technique*. Pp. xx, 467. New York: Free Press, 1968. \$9.95.
- SINGER, DAVID J. (Ed.). *Quantitative International Politics: Insights and Evidence*. Pp. xiii, 394. New York: Free Press, 1968 \$10.95.
- SNOW, HELEN FOSTER. *Women in Modern China*. Pp. xvi, 264. The Hague: Mouton, 1967. 18 guilders.
- Social Work Practice, 1967: Selected Papers, 94th Annual Forum, National Conference on Social Welfare, Dallas, Texas, May 21-May 26, 1967*. Pp. xvii, 255. New York: Columbia University Press, for the National Conference on Social Welfare, 1967. \$6.00.
- SPIRO, HERBERT J. (Ed.). *Patterns of African Development: Five Comparisons*. Pp. 144. Englewood Cliffs, N.J.: Prentice-Hall, 1967. \$4.95.
- STEPHEN, JAMES FITZJAMES. *Liberty, Equality, Fraternity*. Edited by R. J. White. Pp. v, 290. New York: Cambridge University Press, 1968. \$7.50.
- STOCK, ERNEST. *Israel on the Road to Sinai, 1949-1956: With a Sequel on the Six-Day War, 1967*. Pp. x, 284. Ithaca, N.Y.: Cornell University Press, 1967. \$6.50.
- STOKKE, BAARD RICHARD. *Soviet and Eastern European Trade and Aid in Africa*. Pp. xx, 326. New York: Frederick A. Praeger, 1967. \$15.00.
- SUFKIN, SIDNEY C. *Technical Assistance: Theory and Guidelines*. Pp. xii, 111. Syracuse, N.Y.: Syracuse University Press, 1966. \$5.00.
- TINKER, HUGH. *India and Pakistan: A Political Analysis*. Pp. 248. Second (Revised) Edition. New York: Frederick A. Praeger, 1967. \$6.00.
- TRATTNER, WALTER L. *Homer Folks: Pioneer in Social Welfare*. Pp. xii, 355. New York: Columbia University Press, 1968. \$10.00.
- TRUONG BUU LAM. *Patterns of Vietnamese Response to Foreign Intervention 1858-1900*. Pp. x, 151. Paper-bound edition. New Haven, Conn.: Southeast Asia Studies, Yale University, 1967. No price.
- TUNG, WILLIAM L. *International Law in an Organizing World*. Pp. xxix, 604. New York: Thomas Y. Crowell, 1968. No price.
- VIVES, JAIME VICENS. *Approaches to the History of Spain*. Translated and edited by Joan Connelly Ullman. Pp. xxv, 189. Berkeley and Los Angeles: University of California Press, 1967. \$6.50.
- WAGLEY, CHARLES. *The Latin American Tradition: Essays on the Unity and the Diversity of Latin American Culture*. Pp. viii, 242. New York: Columbia University Press, 1968. \$6.75.
- WALEY, ARTHUR. *The Opium War through Chinese Eyes*. Pp. 256. Paper-bound edition. Stanford, Calif.: Stanford University Press, 1968. \$2.95.
- WEBB, WILSE B. *Sleep: An Experimental Approach*. Pp. vi, 250. Paper-bound edition. New York: The Macmillan Company, 1958. \$6.50.
- WHEARE, K. C. *Legislatures*. Pp. 247. Paper-bound edition. New York: Oxford University Press, 1967. \$1.50.
- WHITEFORD, ANDREW H. (Ed.). *A Reappraisal of Economic Development: Perspectives for Cooperative Research*. Pp. xviii, 259. Chicago: Aldine, 1967. \$6.00.
- WHITING, ALLEN S. *Soviet Policies in China, 1917-1924*. Pp. viii, 350. Paper-bound edition. Stanford, Calif.: Stanford University Press, 1968. \$2.95.
- WISE, S. F., and ROBERT CRAIG BROWN. *Canada Views the United States: Nineteenth-Century Political Attitudes*. Pp. xi, 139. Seattle: University of Washington Press, 1967. \$4.95.
- WONNACOTT, RONALD J., and PAUL WONNACOTT. *Free Trade between the United States and Canada: The Potential Economic Effects*. Pp. xx, 430. Cambridge, Mass.: Harvard University Press, 1967. \$9.00.
- WRIGHT, GORDON. *Rural Revolution in France: The Peasantry in the Twentieth Century*. Pp. xi, 271. Stanford, Calif.: Stanford University Press, 1968. \$2.95.
- YOUNG, KENNETH. *Rhodesia and Independence*. Pp. xiv, 567. New York: James H. Heineman, 1967. \$7.25.
- ZIMMERMAN, JOSEPH F. *Government of the Metropolis: Selected Readings*. Pp. vi, 345. Paper-bound edition. New York: Holt, Rinehart and Winston, 1968. \$4.75.

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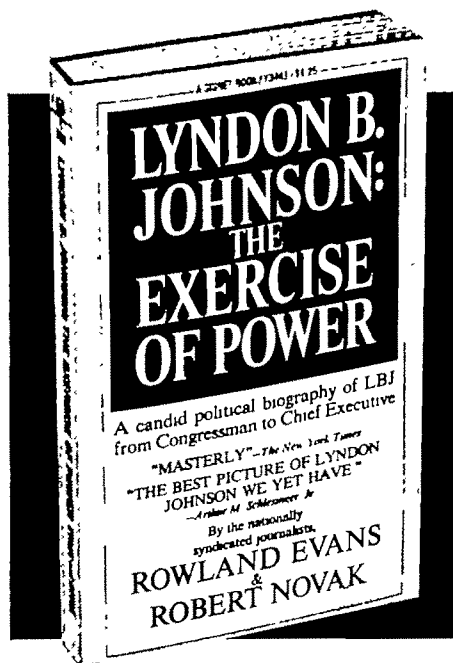
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